

**SIXTEEN & FOUR, LLC**  
**REAL PROPERTY EXCHANGE AND DEVELOPMENT AGREEMENT**

This Real Property Exchange and Development Agreement (“**Agreement**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between Sixteen & Four, LLC, an Arizona limited liability company (“**Sixteen & Four**”), and the City of Yuma, an Arizona municipal corporation (“**City**”). Collectively, Sixteen & Four and the City are referred to herein as the “**Parties**” or individually as a “**Party**.”

**RECITALS**

**WHEREAS**, the City is the owner of a remnant parcel of vacant real property (the “**Property**”) consisting of approximately 8,973 square feet located in the 1500 block of 4<sup>th</sup> Avenue, depicted on the location map attached as Exhibit A labelled ‘Exchange Property’ and legally described in Exhibit B; and,

**WHEREAS**, the Property is situated between two larger parcels and has a primary value for assemblage with one of the adjacent parcels; and,

**WHEREAS**, the Property was previously declared surplus for City use, and authorized for exchange with the adjacent property owner to the north through City Ordinance No. O2015-024; however, the northern property owner rejected the exchange; and,

**WHEREAS**, Ordinance No. O2017-038 repeals Ordinance No. O2015-024, re-declares the Property surplus for City use, and authorizes an exchange of the Property with Sixteen & Four which owns the adjacent parcel to the South (including the 4,901.59 square feet labeled “Easement Area” in Exhibit A and legally described in Exhibit C); and,

**WHEREAS**, Sixteen & Four is the assignee of that certain Real Property Exchange and Development Agreement (the “**Development Agreement**”), dated November 24, 2015, entered into between Kenyons Market, Inc. (“**KMI**”) and the City; and,

**WHEREAS**, the Development Agreement obligated the City to design and construct certain 15<sup>th</sup> Street driveway improvements within the Easement Area; and,

**WHEREAS**, instead of the City designing and constructing the 15<sup>th</sup> St. driveway improvements, the Parties agreed that in connection with Sixteen & Four’s construction of the Sprouts Marketplace project (“**Sprouts**”) that Sixteen & Four would construct the 15<sup>th</sup> St. driveway improvements at an accepted bid cost of \$36,507.50, and that the City would reimburse Sixteen & Four in the amount of the accepted cost; and,

**WHEREAS**, during the development and construction of the 16<sup>th</sup> Street and 4<sup>th</sup> Avenue intersection improvements, an Environmental Site Assessment became necessary, which the City agreed to split with Sixteen & Four at a cost to the City of \$7,990.00 still owed to Sixteen & Four; and,

**WHEREAS**, the Parties desire to exchange the City’s remnant Property for an easement

and the payment in full of the City's reimbursement obligations to Sixteen & Four; and,

**WHEREAS**, such exchange would allow the City to offset the cost of the City's obligations without expending taxpayer funds; and,

**WHEREAS**, Sixteen & Four desires to utilize the Property for additional parking for a separate pad space within the existing Sprouts parking lot, further redeveloping blighted property within the City's Redevelopment District; and,

**WHEREAS**, simultaneously with the transfer of the Property, Sixteen & Four will deliver to the City for recording, an executed public access and underground utility easement ("**Easement**") substantially in the form of Exhibit D attached; and,

**WHEREAS**, the Property will be conveyed to Sixteen & Four by way of Special Warranty Deed substantially in the form of Exhibit E attached,

**NOW THEREFORE**, in consideration of the premises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **AGREEMENT**

1. **Recitals**. Each of the recitals above is true and accurate and incorporated here as a material part of this Agreement.

2. **Purpose**. The City will transfer the Property to Sixteen & Four in exchange for the Easement and the satisfaction of the City's financial obligations to Sixteen & Four.

3. **Exchange of Land**. The City agrees to deliver and exchange title to the Property, subject to valid existing rights, easements, and rights-of-way, by executing and recording a Special Warranty Deed, substantially in the form of Exhibit E. Simultaneously with the transfer of the Property by Special Warranty Deed, Sixteen & Four agrees to deliver to the City for recording, a public access and utility easement substantially in the form of Exhibit D. Sixteen & Four agrees that the recording of the Special Warranty Deed transferring fee title to the Property to Sixteen & Four and recording the Easement shall fully satisfy the following City obligations to Sixteen & Four: (i) reimbursement to Sixteen & Four in the amount of \$36,507.50 for the 15<sup>th</sup> Street Driveway Improvements constructed by Sixteen & Four, and (ii) reimbursement to Sixteen & Four for the City's share of the Environmental Site Assessment in the amount of \$7,990.00

4. **Term**. The effective date of this Agreement ("**Effective Date**") shall be the date of execution by both Parties. This Agreement shall terminate when the obligations of both Parties are complete and the Special Warranty Deed and Easement have recorded.

5. **Title Insurance, Escrow & Recording Fees**. The Parties agree that no escrow shall be required. If Sixteen & Four desires title insurance on the Property, it shall purchase and pay for any title insurance policy it deems necessary for the Property. The City shall pay all

recording fees and cause the delivery of the original signed, recorded Special Warranty Deed and a conformed copy of the recorded Easement to Sixteen & Four. The Special Warranty Deed and Easement shall be recorded by the City within 10 days of City receipt of the signed, recordable Easement.

6. Property As-Is; No Representations. Sixteen & Four and the City each acknowledge that it is acquiring the Property or Easement in an “as is” condition and shall have determined, prior to the recording of the Special Warranty Deed or Easement, any effect on the uses contemplated for the Property or Easement.

6.1 Except as specified in this Agreement, each Party acknowledges and agrees that the other Party and its agents have not made, do not make, and specifically negate and disclaim any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether expressed or implied, oral or written, past, present or future, of, as to, concerning or with respect to the Property or Easement including, without limitation:

a. The value, nature, quality or condition of the Property or Easement, including without limitation the water, soil and geology and status of any permits and governmental approval;

b. The suitability of the Property or Easement for any and all activities and uses which a purchaser may conduct thereon;

c. The compliance of or by the Property or Easement with any laws, rules, ordinances or regulations of any applicable governmental authority or body;

d. Any representation regarding Hazardous Materials or that the Property or Easement complies and will comply in all respects with applicable environmental laws, rules, regulations, and court or administrative orders. As used herein, the term “Hazardous Materials” includes without limitation, any asbestos, urea formaldehyde foam insulation, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related or unrelated substances or materials defined, regulated, controlled, limited or prohibited in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), (42 U.S.C. Sections 9601, et seq), the Hazardous Materials Transportation Act, (49 U.S.C. Sections 1801 et seq.), the Resource Conservation and Recovery Act (RCRA), (42 U.S.C. Sections 6901, et seq.), the Clean Water Act, (33 U.S.C. Sections 1251, et seq.), the Clear Air Act, (42 U.S.C. Sections 7401, et seq.), the Toxic Substances Control Act, (15 U.S.C. Sections 2601 et seq.), each such Act as amended from time to time, or in the rules, regulations and publications adopted and promulgated pursuant thereto, or in the rules and regulations of the Occupational Safety and Health Administration (OSHA) pertaining to occupational exposure to asbestos, as amended from time to time, or in any other federal, state or local environmental law, ordinance, rule, or regulation now or hereafter in effect.

6.2 Sixteen & Four and the City further acknowledge and agree that each entity shall rely solely on its own investigation of the Property or Easement.

6.3 Each Party agrees that the other Party is not, and shall not be, liable or bound in any manner by any verbal statements, representations, or information pertaining to the Property or Easement.

6.4 Each Party further acknowledges and agrees that to the maximum extent permitted by state, local and federal law, the Property and Easement exchange is made on an "AS IS" condition with all faults. The provisions of this Section shall survive recording.

7. Possession and Entry. Exclusive possession of the Property shall be delivered to Sixteen & Four at the time of recording the Special Warranty Deed. Sixteen & Four or its agents shall have the right to enter the property to be acquired at reasonable times for the purpose of conducting examinations, inspections or testing which Sixteen & Four deems necessary to determine if the property is suitable for Sixteen & Four's contemplated use.

8. Taxes and Assessments. Real estate taxes and assessments, if any, shall be prorated on the basis of the most recent tax statement for the applicable property. Such proration shall be made as of 12:01 a.m. on the date of recording the Special Warranty Deed on the basis of a 365 day year.

9. Notices. All notices, consents, requests, instructions, approvals, or other communications required or permitted to be given hereunder, shall be in writing, and shall become effective upon receipt if delivered in person, or 72 hours after such are deposited in the United States mail, postage prepaid, addressed as shown below, or to such other address as any Party may, from time to time, designate in writing.

Sixteen & Four, LLC  
c/o Beckham Development Company, LLC  
10611 N. Hayden Road, Suite D-105  
Scottsdale, Arizona 85260  
Telephone: (480) 751-6290

City of Yuma  
Attn: City Administrator  
One City Plaza  
Yuma, Arizona 85364  
Telephone: (928) 373-5011

-AND-

Beckham Development Company, LLC  
Attn: David Beckham  
10611 N. Hayden Road, Suite D-105  
Scottsdale, Arizona 85260  
Telephone: (480) 751-6290

10. Construction. Captions of the paragraphs are for convenience only and shall not govern the interpretation of the terms and provisions hereof. This Agreement represents the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement

that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

11. Severability. If any term, covenant, condition or provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. If any applicable law or court of competent jurisdiction prohibits or excuses the City or Sixteen & Four from undertaking any contractual commitment to perform under any provision hereunder, the remaining portions of this Agreement shall remain in full force and effect, and the Parties will negotiate diligently in good faith for such amendments of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.

12. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof and supersedes any prior agreement, understanding, negotiation or representation regarding the subject matters covered by this Agreement. No oral or written statements, promises, or inducements made by either party or its agents not contained or specifically referred to in this Agreement is valid or binding.

13. No Partnership, Third Person. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Parties. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, corporation or other entity not a Party to this Agreement (including, without limitation, any broker), and no such other person, firm, corporation or entity shall have any right or cause of action hereunder, except for permitted transferees or assignees to the extent that they assume or succeed to the rights and/or obligations of Sixteen & Four under this Agreement.

14. Date of Performance. Time is of the essence. If the date of performance of any obligation or the last day of any time period provided for should fall on a Saturday, Sunday, or legal holiday, then the obligation shall be due and owing, and the time period shall expire, on the first day thereafter which is not a Saturday, Sunday, or legal holiday.

15. Conflict of Interest. This Agreement is subject to Arizona Revised Statutes, 38-511, which provides for cancellation of Contract (Agreements) by the City of Yuma without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of City of Yuma is, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement, with respect to the subject matter of the Agreement.

16. Resolution of Disputes. If a dispute arises between the Parties regarding the interpretation or enforcement of this Agreement, the Parties agree to work together in good faith to resolve such dispute, including attempting to resolve the dispute through mediation prior to filing a lawsuit. The Parties agree that such mediation shall be non-binding and that all costs and expenses of the mediation shall be borne and paid by the Parties in equal shares.

17. Counterparts. For the convenience of the Parties, this Agreement may be executed in two or more counterparts and each executed counterpart shall for all purposes be deemed an original and shall have the same force and effect as an original, but all of which together shall constitute in the aggregate but one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. None of the preparation, circulation of drafts, negotiations, or transmission of signed copies of this Agreement shall constitute an offer to exchange the properties. Neither Party shall have any right, duty or obligation under this Agreement unless nor until this Agreement or counterparts have been executed by both Parties and has been approved by the Yuma City Council and is in effect.

18. Representations of the Parties:

18.1 Sixteen & Four Representations. Sixteen & Four represents and warrants that:

a. Sixteen & Four has the full right, power and authorization to enter into and perform this Agreement, the obligations and undertakings under this Agreement, and the execution, delivery and performance of this Agreement by Sixteen & Four has been duly authorized, agreed to, and is in compliance with any organizational documents of Sixteen & Four.

b. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

c. Sixteen & Four will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

d. As of the date of this Agreement, Sixteen & Four knows of no litigation, proceeding or investigation pending or threatened against or affecting Sixteen & Four, which could have a material adverse effect on Sixteen & Four's performance under this Agreement that has not been disclosed in writing to the City.

e. This Agreement (and each undertaking of Sixteen & Four contained herein) constitutes a valid, binding and enforceable obligation of Sixteen & Four according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

f. The execution, delivery and performance of this Agreement by Sixteen & Four is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which Sixteen & Four is a party or to which Sixteen & Four is otherwise subject.

g. Sixteen & Four has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects.

h. Sixteen & Four has had opportunity for independent legal review of this Agreement by counsel of its choosing prior to the execution hereof.

18.2. City Representations. City represents and warrants to Sixteen & Four that:

a. City has the right, power and authorization to enter into and perform this Agreement and each of City's obligations and undertakings under this Agreement, and City's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the Yuma City Charter and the Yuma City Code.

b. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

c. City will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

d. City knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of City or its officials with respect to this Agreement that has not been disclosed in writing to Sixteen & Four.

e. This Agreement (and each undertaking of City contained herein), constitutes a valid, binding and enforceable obligation of City, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency, referendum, and other laws of general application affecting creditor's rights and by equitable principles, whether considered at law or in equity.

f. The execution, delivery and performance of this Agreement by City is not prohibited by, and does not conflict with, any other agreements, instruments or judgments or decrees to which City is a party or is otherwise subject.

g. City has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

19. Exhibits; Sections. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. References to Sections are to Sections of this Agreement unless stated otherwise.

20. Attorneys' Fees. In the event of commencement of a legal action in an appropriate forum by a Party to enforce any covenant or any of such Party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing Party in any such action shall be entitled to reimbursement of its reasonable attorneys' fees and court costs, including, but not limited to, costs of expert witnesses, transportation, lodging and

meal costs of the Party and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

21. Successors and Assigns. All of the provisions hereof shall inure to the benefit of and be binding upon the successors in interest and assigns of each of the Parties pursuant to A.R.S. § 9-500.05D, and will run with the land during the term of the Agreement or such longer period where the covenant expressly survives the termination of this Agreement. Wherever the term “Party” or the name of any particular Party is used in this Agreement such term shall include any such Party’s permitted successors and assigns.

22. Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Yuma (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 24.

23. Recordation. City shall record a copy of this Agreement no later than ten (10) days from the date of entering into this Agreement pursuant to A.R.S. § 9-500.05.

24. Further Acts. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (i) this Agreement as in full force and effect, and (ii) the performance of the obligations hereunder at any time.

25. Amendment. No change or addition is to be made to this Agreement except by written amendment executed by the City and Sixteen & Four. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Yuma County, Arizona.

26. Individual Nonliability. No City Council member, official, representative, agent, attorney or employee shall be personally liable to any of the other Parties hereto, or to any successor in interest to such Parties, in the event of any default or breach by City or for any amount which may become due to a Party or its successor, or with respect to any obligation of the City under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Sixteen & Four shall be limited solely to the assets of Sixteen & Four, and shall not extend to or be enforceable against: (i) the individual assets of any of the individuals or entities who are members, stockholders, or officers or agents of Sixteen & Four.

27. Proposition 207 Waiver. Sixteen & Four waives and releases the City from any



and all claims under A.R.S. § 12-1134, et seq., including any right to compensation for reduction to the fair market value of Sixteen & Four's property or any portion thereof, as a result of City's approval or failure to approve this Agreement. The terms of this waiver shall run with the land and shall be binding upon all subsequent landowners, assignees, lessees and other successors, and shall survive the termination of this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

**CITY OF YUMA, an Arizona  
Municipal corporation**

By: \_\_\_\_\_  
Gregory K. Wilkinson  
City Administrator

**SIXTEEN & FOUR, LLC, an Arizona  
limited liability company**

By: Y8-416, LLC, an Arizona limited liability  
company  
Manager

ATTEST

By: Creek Land Investment LLLP, an  
Arizona limited liability limited  
partnership,  
Member

By: \_\_\_\_\_  
Lynda L. Bushong  
City Clerk

By: VHD Development Corporation, an  
an Arizona corporation  
General Partner

APPROVED AS TO FORM

By: \_\_\_\_\_  
Robert W. Wyndelts  
President

By: \_\_\_\_\_  
Richard W. Files  
City Attorney

**ACKNOWLEDGEMENTS**

State of Arizona                    )  
  ) ss  
County of Yuma                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017,  
by Gregory K. Wilkinson, City Administrator, of the City of Yuma.

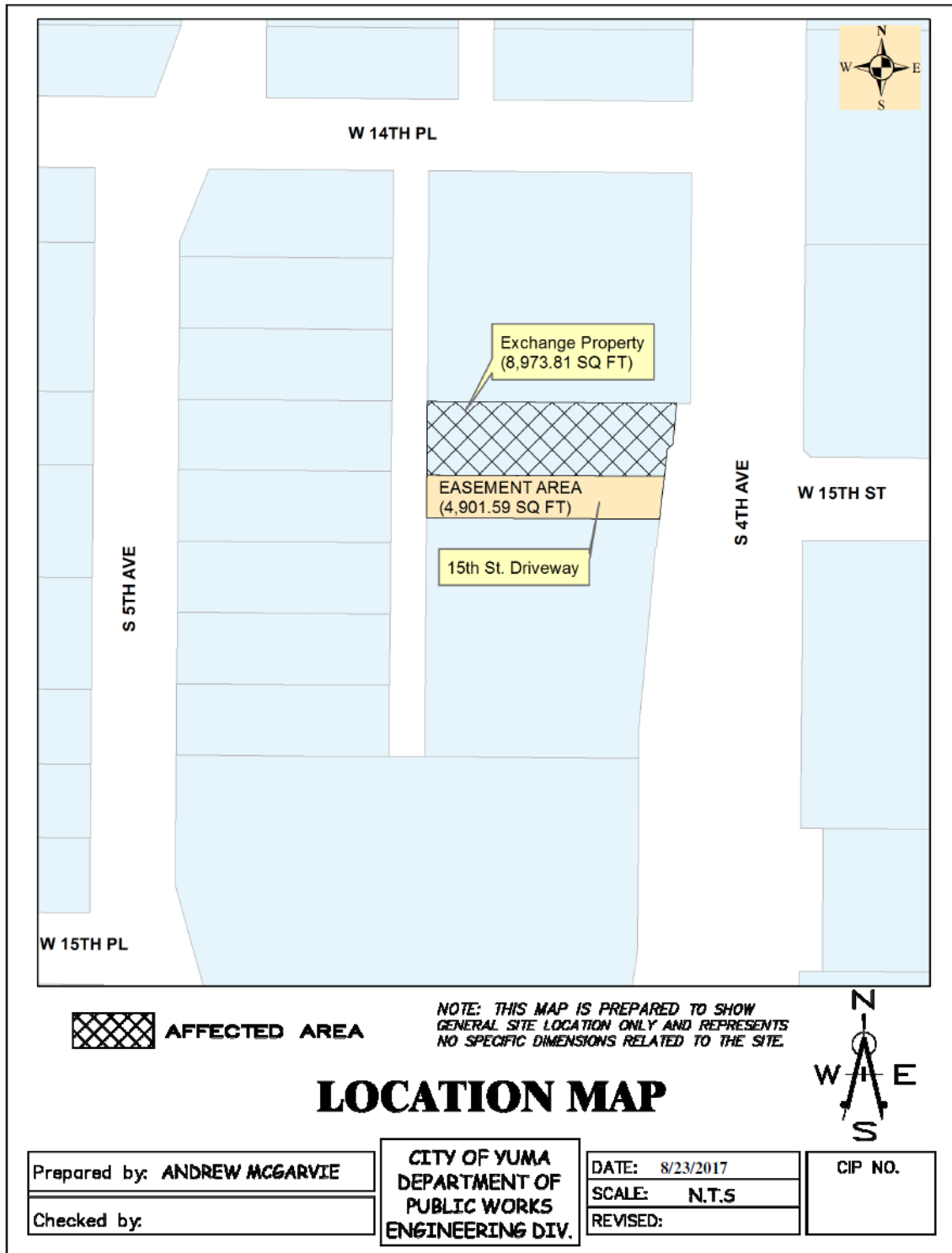
My Commission Expires: \_\_\_\_\_  
Notary

State of Arizona                    )  
  ) ss  
County of Maricopa                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017,  
by Robert W. Wyndelts, President, VHD Development Corporation, the General Partner of Creek Land  
Investment LLLP, Member of Y8-416, LLC, Manager for Sixteen & Four, LLC, on behalf of the company.

My Commission Expires: \_\_\_\_\_  
Notary

## EXHIBIT A



**EXHIBIT B**

**LEGAL DESCRIPTION FOR CITY EXCHANGE PROPERTY**

A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) OF SECTION 28, TOWNSHIP 8 SOUTH, RANGE 23 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YUMA COUNTY, ARIZONA, ALSO DESCRIBED IN "KENYONS MARKET LOT TIE / LOT SPLIT" PLAT, DATED MAY 19, 2016, FEE # 2016-11866, RECORDED IN BOOK 28, PAGE 27 OF PLATS, YUMA COUNTY RECORDER, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

PARCEL "C" OF THE SAID "KENYONS MARKET LOT TIE / LOT SPLIT" PLAT.

CONTAINING 8,973.81 SQUARE FEET OR 0.206 OF AN ACRE, MORE OR LESS.

Legal Description Verified by City Engineer	
Date	

**EXHIBIT C**

**LEGAL DESCRIPTION FOR EASEMENT**

**EASEMENT**

(Legal Description of the Servient Estate)

A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (E½SE¼SW¼) OF SECTION 28, TOWNSHIP 8 SOUTH, RANGE 23 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YUMA COUNTY, ARIZONA, ALSO DESCRIBED IN “KENYONS MARKET LOT TIE / LOT SPLIT” PLAT, DATED MAY 19, 2016, FEE # 2016-11866, RECORDED IN BOOK 28, PAGE 27 OF PLATS, YUMA COUNTY RECORDER, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

THE NORTH 30 FEET OF PARCEL “B” OF THE SAID “KENYONS MARKET LOT TIE / LOT SPLIT” PLAT.

CONTAINING 4,901.59 SQUARE FEET OR 0.11 OF AN ACRE, MORE OR LESS.

Legal Description Verified by City Engineer	
Date	

## **EXHIBIT D**

### **WHEN RECORDED, RETURN TO:**

City of Yuma  
Attn: City Attorney's Office  
One City Plaza  
P.O. Box 13012  
Yuma, Arizona 85366-3012

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

### **UNDERGROUND UTILITY AND ACCESS EASEMENT**

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is acknowledged, **Sixteen & Four, LLC**, an Arizona limited liability company ("**Grantor**") grants to the City of Yuma ("**Grantee**") a perpetual, public access and underground utility easement for utilities and ingress and egress, over and across the real property (the "**Servient Estate**") described in Exhibit "1" attached and made a part of this Easement, subject to all existing restrictions, covenants, conditions, rights-of-way, easements, and mineral reservations of record, if any. Ingress and egress is restricted to public motorized and non-motorized vehicular access to facilitate ingress and egress from 4<sup>th</sup> Avenue to the alley extending north of the Servient Estate to 14<sup>th</sup> Place and for underground utilities within the Easement. The motorized public access described in this Easement is limited to private passenger motor vehicles, including, but not limited to, passenger vans, minivans, trucks, and motorcycles, that are primarily intended for personal, family, or household use and with a maximum gross vehicle weight rating of 15,000 pounds or less, the operation of which does not require a commercial driver's license. The limitations on motorized public access shall not restrict any emergency vehicle access or access for the repair, maintenance, installation, or replacement of any utilities located within or adjacent to the Easement. Grantee shall restore the Servient Estate to as good or better condition after any utility work by Grantee or Grantee's agents within the Easement.

With the exception of underground utility work within the Easement, Grantor and



**EXHIBIT 1**  
**EASEMENT**

(Legal Description of the Servient Estate)

A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) OF SECTION 28, TOWNSHIP 8 SOUTH, RANGE 23 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YUMA COUNTY, ARIZONA, ALSO DESCRIBED IN "KENYONS MARKET LOT TIE / LOT SPLIT" PLAT, DATED MAY 19, 2016, FEE # 2016-11866, RECORDED IN BOOK 28, PAGE 27 OF PLATS, YUMA COUNTY RECORDER, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

THE NORTH 30 FEET OF PARCEL "B" OF THE SAID "KENYONS MARKET LOT TIE / LOT SPLIT" PLAT.

CONTAINING 4,901.59 SQUARE FEET OR 0.11 OF AN ACRE, MORE OR LESS.



**EXHIBIT E**

**SPECIAL WARRANTY DEED**

**WHEN RECORDED, RETURN TO:**

Sixteen & Four, LLC  
c/o Beckham Development Company, LLC  
10611 N. Hayden Road, Suite D-105  
Scottsdale, Arizona 85260

*Affidavit of Value exempt per A.R.S. 11-1134 A-3*

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SPECIAL WARRANTY DEED**

For the consideration of Ten Dollars, and other valuable considerations, the **City of Yuma**, an Arizona municipal corporation (**Grantor**) do/does hereby grant and convey to **Sixteen & Four, LLC**, an Arizona limited liability company (**Grantee**) the following real property situated in Yuma County, Arizona:

**Legal Description:**

*A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) OF SECTION 28, TOWNSHIP 8 SOUTH, RANGE 23 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YUMA COUNTY, ARIZONA, ALSO DESCRIBED IN "KENYONS MARKET LOT TIE / LOT SPLIT" PLAT, DATED MAY 19, 2016, FEE # 2016-11866, RECORDED IN BOOK 28, PAGE 27 OF PLATS, YUMA COUNTY RECORDER, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;*

*PARCEL "C" OF THE SAID "KENYONS MARKET LOT TIE / LOT SPLIT" PLAT.*

*CONTAINING 8,973.81 SQUARE FEET OR 0.206 OF AN ACRE, MORE OR LESS.*

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions,

obligations, and liabilities as may appear of record. Grantor hereby binds itself and its successors to warrant and defend the title, against all acts of the Grantor herein, and no other, subject to the matters set forth.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

**GRANTOR:**  
**CITY OF YUMA, a Municipal Corporation**

\_\_\_\_\_  
Gregory K. Wilkinson  
City Administrator

**Attested By:**

**Approved as to Form:**

\_\_\_\_\_  
Linda L. Bushong  
City Clerk

\_\_\_\_\_  
Richard W. Files  
City Attorney

**Acknowledgement**

State of Arizona       )  
                                  ) ss  
County of Yuma       )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2017, by Gregory K. Wilkinson, City Administrator of the City of Yuma.

My Commission Expires:

\_\_\_\_\_  
Notary