

ORDINANCE NO. O2017-002

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA,
ARIZONA, ABANDONING A UTILITY EASEMENT AND ACCEPTING A NEW
UTILITY EASEMENT**

WHEREAS, the City of Yuma (City) is authorized, pursuant to the City Charter, Article III, Section 2, to acquire and dispose of real property; and,

WHEREAS, the City Council adopted Ordinance No. O2015-41 on July 15, 2015, providing for the reservation or granting of certain necessary easements and declaring as surplus, certain City-owned real property; and,

WHEREAS, Ordinance No. O2015-041 authorized the exchange of surplus City property for three parcels of real property owned by Kenyons Market, Inc., located at the northwest corner of the 16th Street and 4th Avenue intersection in the City of Yuma; and,

WHEREAS, Ordinance No. O2015-041 reserved a utility easement on Parcel 6; and,

WHEREAS, Kenyons Market, Inc. entered into a Real Property Exchange & Development Agreement (Agreement) with the City of Yuma approved by Resolution R2015-045 on December 1, 2015; and,

WHEREAS, Section 5.0 of the Agreement reserved a utility easement on Parcel 6 “(unless the utilities in that easement are relocated, in which case the Utility Easement will be abandoned)”; and,

WHEREAS, a Special Warranty Deed from the City of Yuma to Kenyons Market Inc. was recorded on April 20, 2016 transferring ownership in Parcel 6 (Alley) and reserving an easement for utilities purposes; and,

WHEREAS, a Special Warranty Deed from Kenyons Market, Inc. to Sixteen & Four, L.L.C. an Arizona limited liability company, was recorded on May 6, 2016 as Yuma County Recorder’s Fee 2016-10691; and,

WHEREAS, a Kenyons Market Lot Tie / Lot Split was recorded on May 19, 2016, Fee # 2016-11866, recorded in Book 28 of Plats, Page 27 Yuma County Records, under ownership of Sixteen & Four, L.L.C.; and,

WHEREAS, Kenyons Market Lot Tie / Lot Split tied the alleys and exchange property together, and dedicated public utility easements; and,

WHEREAS, A Special Warranty Deed from Sixteen & Four LLC, to the City of Yuma transferring Parcel A of the Kenyons Market Lot Tie / Lot Split was recorded on July 22, 2016, Fee 2016-17521, Yuma County Records, in conformance with the Agreement approved by Resolution R2015-045; and,

WHEREAS, the utility relocation work was completed at the end of September 2016; and,

WHEREAS, the new relocated utility was not centered in the public utility corridor as platted in the Kenyons Market Lot Tie / Lot Split; and,

WHEREAS, Sixteen & Four, L.L.C is agreeable to the grant of utility easement from the City of Yuma to the City of Yuma to cover the relocated utilities that were not placed in the correct utility corridor.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma, as follows:

SECTION 1: The abandonment of the existing utility easement described in the Quit Claim Deed attached as Exhibit 1 is approved and shall be complete and memorialized upon the recording of the Quit Claim Deed.

SECTION 2: The City of Yuma as Grantor shall grant, and as the Grantee shall accept, the new utility easement described in the Grant of Easement attached as Exhibit 2 and totaling 1,451 square feet, more or less.

SECTION 3: In order for the City to record the Quit Claim Deed and finalize the easement abandonment, Sixteen & Four, LLC shall sign and notarize both the Grant of Easement and the Quit Claim Deed and pay all costs for recording.

SECTION 4: The City Administrator is authorized and directed to execute all documents and instruments associated with this abandonment of the utility easement and grant and acceptance of the new utility easement.

SECTION 5: All exhibits to this ordinance are incorporated into and made a part of this ordinance by reference.

Adopted this _____ day of _____, 2017.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

City Attorney