

ORDINANCE NO. O2017-038

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, REPEALING ORDINANCE NO. O2015-024, DECLARING A REMNANT PARCEL OF VACANT, CITY-OWNED REAL PROPERTY LOCATED ON THE WEST SIDE OF 4TH AVENUE IN THE 1500 BLOCK, HEREAFTER DESCRIBED, SURPLUS FOR CITY USE, AUTHORIZING THE EXCHANGE OF THE SURPLUS PROPERTY TO SATISFY CERTAIN CITY OBLIGATIONS UNDER A PRIOR REAL PROPERTY EXCHANGE AND DEVELOPMENT AGREEMENT, AND AUTHORIZING THE ACCEPTANCE OF AN INGRESS/EGRESS AND UNDERGROUND UTILITIES EASEMENT

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

WHEREAS, the City is the owner of a remnant parcel of real property, legally described in Exhibit “A” (“Property”); and,

WHEREAS, Ordinance O2015-024 previously declared the Property surplus and authorized an exchange of the Property with the adjacent property owner to the north; and,

WHEREAS, the property owner to the north rejected the City’s offer to exchange the Property for a right-of-way taper on 4th Avenue; and,

WHEREAS, on November 24, 2015 the City entered into a Real Property Exchange and Development Agreement (“Development Agreement”) with Kenyons Market, Inc. (“KMI”), which KMI assigned to Sixteen & Four, LLC (“Sixteen & Four”); and,

WHEREAS, pursuant to the Development Agreement, the City was obligated to design and construct certain driveway improvements in accordance with plans prepared by the City; and,

WHEREAS, Sixteen & Four paid for the construction of the driveway improvements and the City is obligated to reimburse Sixteen & Four for the costs of those improvements; and,

WHEREAS, the property exchanged pursuant to the Development Agreement required a Phase 1 Environmental Site Assessment (“ESA”), the cost of which the City and Sixteen & Four agreed to divide evenly; and,

WHEREAS, the City and Sixteen & Four desire to exchange the Property for repayment of the City’s obligations owed to Sixteen & Four under the Development Agreement, taking into account the objectives of the Redevelopment Plan and the presumption that the highest and best use for the Property is assemblage for redevelopment; and,

WHEREAS, exchanging the surplus City-owned Property to Sixteen & Four will serve the public interest and be of public benefit by fulfilling the City's payment obligations to Sixteen & Four, returning the Property to a productive, taxable use as opposed to remaining a vacant parcel, and the dedication to the City of an access and underground utilities easement; and,

WHEREAS, the Property will be exchanged with Sixteen & Four pursuant to the terms and conditions of a Real Property Exchange Agreement subject to the approval of the City Council.

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

SECTION 1: Ordinance O2015-024 is repealed.

SECTION 2: The Property described in the attached Exhibit "A" is declared surplus for City use and authorized for exchange to Sixteen & Four, LLC pursuant to the terms of a Real Property Exchange Agreement, the final form of which must be approved by City Council resolution.

SECTION 3: After the effective date of this ordinance and City Council approval of the Real Property Exchange Agreement, the City Administrator is authorized to take the necessary actions to convey the surplus Property to Sixteen & Four LLC, to accept from Sixteen & Four an easement on the property described in the attached Exhibit "B", and to execute all necessary documents to the transaction on behalf of the City of Yuma.

SECTION 4: All attached exhibits are incorporated by reference as a part of this ordinance.

ADOPTED THIS ____ day of _____, 2017.

ATTEST:

Douglas J. Nicholls
Mayor

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

EXHIBIT A

(Legal Description of 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.

EXHIBIT B

(Legal Description of Easement)

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.