

ORDINANCE NO. O2019-032

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, VACATING THE RIGHT-OF-WAY HEREAFTER DESCRIBED, DECLARING THE RIGHT-OF-WAY SURPLUS WITH THE RESERVATION OF AN EASEMENT, AND AUTHORIZING THE SALE OF THE SURPLUS RIGHT-OF-WAY SUBJECT TO A REVERTER CLAUSE UPON THE RECORDING OF A SPECIAL WARRANTY DEED

WHEREAS, the County of Yuma obtained ownership to the inside 30 feet width of Crest Drive for approximately the first $\frac{1}{8}$ mile south of 32nd Street by warranty deed, dated March 20, 1956, FEE # 4644, recorded in Docket 4644, Page 41, Yuma County Records (YCR); and,

WHEREAS, the City of Yuma annexed certain right-of-way of the above described Crest Drive by Ordinance No. 890, dated April 10, 1963, recorded in Docket 349, Pages 714 to 716, YCR; and,

WHEREAS, the City of Yuma obtained ownership of an additional 10 feet of right-of-way on the east side of Crest Drive for approximately the first $\frac{1}{8}$ mile south of 32nd Street by quit-claim deed, dated November 15, 1965, FEE # 19094, recorded in Docket 420, Page 504, YCR; and,

WHEREAS, the City of Yuma obtained ownership of an additional 10 feet of right-of-way on the west side of Crest Drive for the North 500 feet south of 32nd Street by quit-claim deed, dated November 15, 1965, FEE # 19095, recorded in Docket 420, Page 505, YCR; and,

WHEREAS, the City of Yuma annexed the east half of Crest Drive extending from the east boundary of the previous annexation Ordinance 890 (Airport Annexation) south to the 34th Street alignment by Ordinance No. 1889, dated 28th November 1979, recorded in Docket 349, pages 714 to 716, YCR; and,

WHEREAS, the City of Yuma and Bill Alexander agreed to purchase and split certain property for the purposes of City ownership of the Bonanza Storm Water Basin and the 25 feet of the east half of Crest Drive right-of-way, with the remainder of the property owned by Alexander Ford, Lincoln, Mercury and Toyota as described in Resolution R97-23 and the Development Agreement recorded as FEE #: 1997-20626, YCR, with the City portion of the property purchased by warranty deed, dated February 6, 1998, recorded as FEE # 1998-03386, YCR, and the east half 25 feet of right-of-way for Crest Drive from approximately the $\frac{1}{8}$ mile south of 32nd St. to $\frac{1}{4}$ mile south of 32nd Street (34th Street alignment) dedicated in the MEINHARDT / B-8 STORMWATER BASIN LOT SPLIT, dated October 28, 1998, FEE #: 1998-28530, recorded in Book 16 of Plats, Page 13, YCR; and,

WHEREAS, Ordinance O2007-49, dated October 29, 2007, recorded as FEE # 2007-37000, YCR, annexed the remainder of the East half of Crest Drive extending south of the Ordinance 890 annexation into the City of Yuma; and,

WHEREAS, Bill Alexander Ford Lincoln Mercury Inc., an Arizona corporation (“Alexander Ford”) seeks to acquire 42,160 square feet of City-owned right-of-way in exchange for a covenant that runs with the land that the owner will maintain the Bonanza Basin to City standards; and,

WHEREAS, Alexander Ford proposes to use the property for additional parking and private access to facilities providing accessory services to the main function of automobile sales; and,

WHEREAS, the City of Yuma has determined that vacating the 42,160 square feet of right-of-way along Crest Drive from the south side of 32nd Street to the 34th Street alignment is not detrimental to City operations, as long as a 20 foot wide utilities and access easement is reserved over the abandoned roadway for City access to an existing City water line and to Bonanza Basin, including reserving a 5 foot wide utility easement stubs centered on the service line from the water main to water meter boxes; and,

WHEREAS, by vacating the right-of-way, declaring the property surplus, reserving an easement to the City for access and utilities, and transferring the 42,160 square feet of Crest Drive to Alexander Ford, the City of Yuma will realize cost savings of \$110,000 dollars for street reconstruction and a further \$3,021 dollar savings every fifth year from slurry seal maintenance requirements; and,

WHEREAS, in exchange for the underlying fee title to the 42,160 square feet of Crest Drive, Alexander Ford has agreed to maintain Bonanza Basin (a City owned storm water basin) to City standards as a covenant with a right of reverter (and potential permanent loss of use) of the 42,160 square feet of Crest Drive in the event Alexander Ford or its successors fails to maintain Bonanza Basin as promised; and,

WHEREAS, the City of Yuma has agreed to provide the initial clean-up of the Bonanza Basin site before turning over maintenance responsibilities to Alexander Ford;

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

SECTION 1. The right-of-way on 42,160 square feet of Crest Drive described in Exhibits A through D attached to Exhibit 1 of this ordinance (Exhibit 1 is the Special Warranty Deed), is vacated with the reservation of a utility and access easement to the City of Yuma over, under and through the 17,940 square feet portion of Crest Drive described in Exhibit E of this Ordinance which shall include a 5 foot utility and access easement centered on the water lateral or laterals between the water main, along all lateral(s), and the water meter box(es) or stubouts.

SECTION 2. The right-of-way, with the exception of the reserved easements, is declared surplus for City use and authorized for exchange to Alexander Ford by special warranty deed in the form of attached Exhibit 1, subject to a covenant and right-of-reverter that the owner and owner's successors will maintain Bonanza Basin in accordance with City standards.

SECTION 3. The maintenance of Bonanza Basin covenant and obligation shall run with title to the 42,160 square feet of surplus right-of-way and is appropriate consideration commensurate with the value of the Crest Drive right-of-way.

SECTION 4. The following conditions must be completed before the City of Yuma will record title to the surplus property:

1. Within 90 days of the effective date of this ordinance, Alexander Ford shall prepare Lot Tie's that will combine the surplus Crest Drive right-of-way with the adjacent lots of record to create one or more contiguous parcels in conformance with Arizona Revised Statute 28-7205. The Lot Tie plat's must be reviewed and approved by the City of Yuma, prior to recording.
2. The special warranty deed from City of Yuma granting the surplus right-of-way to Alexander Ford shall be recorded immediately prior to the Lot Tie combining the abandoned Crest Drive right-of-way with the lots of record in the appropriate sequence.

3. Alexander Ford shall record a separate acknowledgement that the Bonanza Basin cannot be altered or utilized, with the exception of landscape maintenance without prior City of Yuma approval.
4. In addition to this ordinance, Alexander Ford shall comply with all city, county, federal and state laws, ordinances, regulations, and codes and pay all costs associated with the exchange.

SECTION 5. All exhibits described in this ordinance are incorporated by reference and the vacation of the described right-of-way shall be final only upon the execution and recording of the special warranty deed attached as Exhibit 1.

SECTION 6. The City Administrator is authorized to execute the special warranty deed and to act on behalf of the City of Yuma in all matters concerning this ordinance.

Adopted this _____ day of _____, 2019.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney