

ORDINANCE NO. O2015.23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE GRANTING OF A RECIPROCAL EASEMENT TO LMC APACHE TERRACE HOLDINGS, LLC OVER CERTAIN CITY-OWNED LAND LOCATED NEAR THE SOUTHEAST CORNER OF DORSEY LANE AND APACHE BOULEVARD, AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE A RECIPROCAL EASEMENT AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, Section 2.11(g) of the Tempe City Charter, requires an ordinance to convey or authorize the conveyance or lease of any interest in City-owned lands; and

WHEREAS, LMC Apache Terrace Holdings, LLC, a Delaware limited liability company (“LMC”) has requested that the City grant it a reciprocal easement over certain City-owned land to facilitate the construction of a shared driveway to provide access to LMC’s adjacent property; and

WHEREAS, the City has agreed to grant such easement so long as LMC constructs and thereafter maintains the driveway and related improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That the City of Tempe does hereby authorize the granting of a reciprocal easement to LMC in substantially the form attached hereto as Exhibit “A” (the “Reciprocal Easement Agreement”), and in the approximate location as described in the Reciprocal Easement Agreement (which location may be modified to reflect the final as-built location), subject to the same encumbrances, liens, limitations, restrictions, and estates as exist on the land of which the easement is a part.

Section 2. That the Mayor or his designee is hereby authorized to take such actions and execute such documents (including without limitation the Reciprocal Easement Agreement) as may be necessary or appropriate to (a) complete the granting of the easement, and (b) facilitate construction of a shared access driveway and related improvements as contemplated in the Reciprocal Easement Agreement or otherwise.

Section 3. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of June, 2015.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney