

ORDINANCE NO. O O2016.58

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING A LEASE OF THE REAL PROPERTY LOCATED WITHIN LOT 1 OF HANOVER MILL AVENUE (101 W. 5TH STREET), AND THE EXECUTION OF RELATED LEASE DOCUMENTS, INCLUDING A LAND AND IMPROVEMENTS LEASE, MEMORANDUM OF LEASE AND DEED.

WHEREAS, City of Tempe ("City") and Mill Avenue Apartments Limited Partnership ("Developer") are parties to that certain Amended and Restated Development Agreement dated May 30, 2013, Resolution No. 2013.65 ("Development Agreement"); and

WHEREAS, Section 5 of the Development Agreement contemplates that the Developer shall have the option to use a combination of economic incentives, in its sole discretion, as outlined in the Development Agreement. Pursuant to Section 5.4, Developer is seeking a two (2) year Government Property Lease Excise Tax Abatement; and

WHEREAS The City would accept reconveyances of land and conveyances of improvements, and would lease-back such land and improvements to the owner thereof for a period of (2) years after the issuance of a certificate of occupancy for such improvements, in order to provide an abatement of real property tax pursuant to Section 42-6201, et seq., of the Arizona Revised Statutes, as amended ("ARS"); and

WHEREAS, a residential development and garage have been constructed on the real property within Lot 1 of Hanover Mill Avenue described on Exhibit A attached hereto (the "Hanover Parcel"); and

WHEREAS, the form of lease is attached to the Development Agreement; however, because the lease has not been executed within the 10-year period referenced in ARS Section 42-6203.A, the lease must be approved by Council pursuant to ARS Section 42-6209.C; and

WHEREAS, the City desires to finalize the form and authorize the execution of the lease and other documents, and the party entitled thereto under the terms of the Development Agreement requests that the City enter into the lease.

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

Section 1: That on completion of the improvements and satisfaction of the other conditions specified in the Development Agreement, the Mayor is authorized to execute a Lease, substantially in the form on file with the City Clerk's Office, and to take such further actions and execute such additional documents as are necessary or appropriate to implement and carry out the transactions authorized in and contemplated by the Development Agreement, the Lease, and this Ordinance, including without limitation, a Memorandum of Lease giving notice of the existence or termination of the Lease, a deed or bill of sale reconveying the leased premises to the appropriate party at the expiration or termination of the Lease.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2016.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney

Exhibit A
The Hanover Parcel

Real property in the City of Tempe, County of Maricopa, State of Arizona, described as follows:

Lot 1 of Hanover Mill Avenue, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, recorded in Book 1172 of Maps, Page 21.