

When recorded mail to:

City Clerk
City of San Luis
P.O. Box 1170
San Luis, Arizona 85349

MEMORANDUM OF UNDERSTANDING

Comes now the City of San Luis, Arizona, a municipal corporation and political subdivision of the State of Arizona ("City") and MJS Properties Limited Partnership ("Owner") and hereby make this agreement on the _____ day of May, 2019 to an understanding regarding the proposed lot split for MJS Properties ("City Lot Split Case Number 2019-0155") located on the southeast corner of 4th Avenue and County 22nd Street in San Luis, Arizona.

WHEREAS, Owner is the owner of real property, Assessor's Parcel Number 226-01-001, and desires to split said parcel into three parcels pursuant to City Lot Split Case Number 2019-0155.

WHEREAS, a true and correct legal description of the property being divided, and to which this instrument applies, is marked "Exhibit A" attached hereto, and by this reference is incorporated herein as though fully set forth again in full.

WHEREAS, Section 7.1 of the Subdivision Regulations of the City provide in part that lot splits may be approved if the division of land is into three or fewer parcels and does not involve right-of-way dedication, utility extension, or other off-site public improvement.

WHEREAS, the Subdivision Regulations of the City do not allow for a lot split process under the particular circumstances of City Lot Split Case Number 2019-0155.

WHEREAS, the purpose of this Memorandum of Understanding is to make appropriate provision for right-of-way dedications, utility extensions, and off-site public improvements such that the application for City Lot Split Case Number 2019-0155 can be approved.

NOW, THEREFORE, intending to be legally bound hereby, the City and Owner agrees as follows:

1. At present time Owner shall dedicate appropriate right-of-way to the City along the Union Street and 4th Avenue alignments in accordance with the standards for right-of-way as provided by the City General Plan. Dedication of said right-of-way shall be by virtue of deed and said deed(s) shall be recorded before with any recordation of plat of lot split.
2. At such time as the parcel fronting on the County 22nd Street alignment that is being created by City Lot Split Case Number 2019-0155 is subdivided or developed, Owner, or the successor of Owner, shall dedicate right-of-way along said County 22nd Street alignment in conformance with the right-of-way standards as contained in the City General Plan and

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develop said right-of-way in accordance with the Public Works Standards of the City. These provisions for dedication and development of right-of-way shall be a condition of the issuance of building permit(s) or other use permit(s) for the development or subdivision of said parcel.

3. At such time as the parcels fronting on the 6th Avenue alignment, that are being created by City Lot Split Case Number 2019-0155, are subdivided or developed, Owner, or the successor of Owner, shall dedicate right-of-way along said 6th Avenue alignment in conformance with the right-of-way standards as contained in the City General Plan and develop said right-of-way in accordance with the Public Works Standards of the City. These provisions for dedication and development of right-of-way shall be a condition of the issuance of building permit(s) or other use permit(s) for the development or subdivision of said parcels.
4. At such time that any lot created by City Lot Split Case Number 2019-0155 is developed, utility extensions and off-site public improvements will be made along the entirety of the lot in the discretion of the Public Works Director of City and shall conform to the Public Works Standards of the City. Development of such utility extensions and off-site public improvements shall be a condition of the issuance of any building permit(s) or other use permit(s) for the development of any such lot.
5. At such time that any lot created by City Lot Split Case Number 2019-0155 is developed the Public Works Director determines, in his sole discretion, that the development of street lights in the public right-of-way is needed or desired, development of such street lighting and the formation of a street lighting improvement district to maintain and pay for said lighting shall be a condition of the issuance of building permit(s) or other use permit(s) for the development of any such lot.
6. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. The Owner represents and warrants that it is duly formed and validly existing under the laws of the State of Arizona and that it is duly qualified to do business in the State of Arizona and is in good standing under applicable state laws. The Owner and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf each individual is signing. The Owner represents to the City that by entering into this Agreement, the Owner has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of this memorandum of understanding.
7. Any successor in interest to Owner shall be bound by the terms and conditions hereof.
8. Subject to the provisions hereof, upon compliance with the other terms and conditions of Section 7.1 of the Subdivisions Regulations and other appropriate ordinances and regulations of the City, City shall approve City Lot Split Case Number 2019-0155.
9. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a

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waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

10. This Agreement, including the Exhibits hereto, which are incorporated herein by this reference, constitutes the entire agreement between the parties. This provision applies only to the entirety of this Agreement only; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this provision has no effect on them.
11. This Agreement may be amended, in whole or in part and with respect to all or any portion of the Property, only with the mutual written consent of the parties to this Agreement or by their successor in interest or assigns. The City shall record the amendment or cancellation in the official records of the Yuma County Recorder.
12. If any other provision of the Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.
13. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. The parties agree that venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Yuma County, Arizona, and the parties hereby waive any right to object to such venue. This agreement is subject to the provisions of A.R.S. §38-511.
14. This Agreement, and any amendment or cancellation of it shall be recorded in the official records of the Yuma County Recorder no later than ten (10) days after the City and the Owner execute such agreement amendment or cancellation.
15. If either party brings a legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party will be entitled to reasonable attorney's fees and court costs.
16. There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.
17. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the parties.
18. Except for mandamus and other special actions, no member, official or employee of the City shall be personally liable to Owner, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Owner or successor, or under any obligation under the terms of this Agreement.
19. Owner hereby certifies that it is not boycotting Israel.

IN WITNESS WHEREOF, the parties have executed this agreement through their authorized representatives as of this _____ day of May, 2019.

City of San Luis, Arizona

MJS Properties Limited Partnership

By: _____

By:  _____

State of Arizona)
)ss.
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Tadeo A. De La Hoya, City Manager of the City of San Luis, a municipal corporation of the State of Arizona, on behalf of the City.

Notary Public

My Commission Expires:

State of Arizona)
)ss.
County of Yuma)

The foregoing instrument was acknowledged before me this 23rd day of May, 2019, by Rebecca Curtis, authorized representative of MJS Properties Limited Partnership, on behalf of the partnership.

Michelle R. Santini
Notary Public

My Commission Expires:

10/02/2021

