

**ORDINANCE NO. O2017.48**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE A LAND AND IMPROVEMENTS LEASE, A MEMORANDUM OF LEASE, AND ADDITIONAL DOCUMENTS WITH KBSII FOUNTAINHEAD LLC WITH RESPECT TO THE PROJECT LOCATED AT 1625 WEST FOUNTAINHEAD PARKWAY.**

WHEREAS, KBS II Fountainhead LLC a Delaware limited liability company (“Developer”) owns certain real property at 1625 West Fountainhead Parkway in the City of Tempe (the “Property”), parties to that certain Development Agreement dated October 26, 2017 Resolution No. R2017.135 (“Development Agreement”) related to the Property are the City and the Bank of the West; and

WHEREAS, City hereby finds that upon execution of the Development Agreement, the conditions stated in Resolution 2010.76 will have been satisfied provided that the Government Property Lease is executed on or before May 20, 2020; and

WHEREAS, Section 2.3 of a Development Agreement contemplates that the Developer shall lease the Property to the Bank; and

WHEREAS, absent this Lease the Bank would not have selected Tempe to place its Operations Center and create 1,000 jobs, which project forecasted fiscal impact of \$4.2 million to Tempe.

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

Section 1: That the Mayor (or his designee) is authorized to execute a Land and Improvements Lease (the “Lease”) in substantially the form on file with the City Clerk’s Office, and to execute all other documents reasonably necessary or appropriate to effectuate the transactions contemplated in the Lease or this Ordinance, including without limitation those documents referenced in or attached as exhibits to the Lease (which documents include, without limitation, a land and improvements lease, a memorandum of lease, various easements, and other documents).

Section 2: Pursuant to City Charter, Section 2.12, this ordinance will be effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
TEMPE, ARIZONA, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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Mark W. Mitchell, Mayor

ATTEST:

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Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

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Judith R. Baumann, City Attorney