

MINUTES
SPECIAL CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
JANUARY 23, 2019
12:00 PM

CALL TO ORDER

Mayor Nicholls called the Special City Council meeting to order at 12:04 p.m.

ROLL CALL

Councilmembers Present: Shelton, Watts, Thomas, Knight and Mayor Nicholls
Councilmembers Absent: McClendon and Miller
Staffmembers Present: City Administrator, Gregory K. Wilkinson
Engineering Manager, Andrew McGarvie
Finance Officer Consultant, Pat Wicks
Various Department Heads or their representative
City Attorney, Richard W. Files
City Clerk, Lynda L. Bushong

I. PUBLIC HEARING AND RELATED ITEMS

1. **MC 2019-016 – Certified Audit Report: Development Impact Fee**
Conduct a public hearing on the Development Fee Biennial Certified Audit in accordance with Arizona Revised Statutes (A.R.S.) §9-463.05 and Yuma City Code §157.05. (Engineering)

Mayor Nicholls opened the public hearing at 12:06 p.m.

McGarvie introduced the City's auditor, Carter T. Froelich, from Launch Development Finance Advisors.

Froelich introduced himself as the managing principal of Launch Development Finance Advisors (Launch) and stated he is also a CPA in the states of Arizona and California. **Froelich** advised that his firm has been working with homebuilders in the public sector in various aspects of development impact fees for over 30-years.

Froelich presented the following information:

- Launch was asked to perform the certified audit pursuant to Arizona Revised Statutes §9-463.05.
- This is the third time Launch has been asked to perform a certified audit for the City of Yuma.
- All tasks that were outlined in the report were performed.
- For a third year in a row nothing was found that would lead Launch to believe the City of Yuma is not administering its development fee program pursuant to its ordinance or to Arizona Revised Statutes.
- Money collected is being used and being spent on those items that are included within the Development Impact Fee studies and the Infrastructure Improvements Plan.

Explaining the process, **Mayor Nicholls** stated that public speakers will be taken first, then the public hearing will be closed, followed by additional questions and comments by City Council.

Harvey Campbell, 4155 E. Co. 13 ½ Street, Yuma, Arizona, stated that Councilmember Thomas, back in October or November, made a motion for the Land Use Assumptions (LUA) and Infrastructure Improvements Plan (IIP) but did not include the Certified Audit Report for the Development Impact Fee. He believes this to be a critical error and requested that City Council properly make a motion to include the Impact Development Fee portion. **Wilkinson** explained that the only requirement is that the meeting be noticed 24 hours in advance - which it was. **Mayor Nicholls** clarified it does not take a vote of City Council to put together an agenda.

Campbell's second issue is with the Development Fee Biennial Certified Audit which, per State statute, must be done within five years. Campbell suggested it has been almost 7 years and questioned the delay and non-compliance with State statutes. **Wilkinson** stated that the last audit was done in August of 2017.

Henry Valenzuela, 2000 W. Country Lane, Yuma, believes Mr. Campbell was referencing Yuma City Code Section 30-02, which gives three provisions for calling a special hearing. Valenzuela agrees with Campbell that the provisions were not correctly adhered to.

Valenzuela, stating that the last LUA was in 2011, had the following questions:

- Does the audit reference the fact that we are two years behind on our LUA because we are supposed to update those every five years?
- Does the audit reference whether we are inappropriately collecting development fees because we are two years behind?

Valenzuela, stating the last City Council-approved IIP was in March 2013 and should have been updated almost a year ago, had the following question:

- Are we inappropriately collecting Development Fees because we are out of compliance?

Referencing the 2016-2017 Development Fee Annual Report, **Valenzuela** stated:

- There was \$389,000 that was missing and the City Administrator admitted that the money was in fact missing and that it was spent on the Pacific Avenue Athletic Complex (PAAC).
- Since the PAAC was never listed in the March 2013 IIP are we supposed to be spending any money on the PAAC?
- There was a suggestion that the Yuma East Athletic Complex is the same thing as the PAAC and would like to hear the auditor's assumption on it.

Mayor Nicholls requested the first group of questions be addressed.

Froelich stated that one of the recommendations in the audit report was that the LUA be updated. The fact that the City was currently in the process of updating the LUA was noted in the report. **Wilkinson** clarified that our hearing on the LUA was held in March 2017.

Froelich explained that their purpose in performing the audit is to address the issues that are called out pursuant to Arizona Revised Statutes as a result of the homebuilders' efforts in 2011. They look to see if the City is collecting fees pursuant to its ordinance, that it is supported by the fee study, and that those dollars are being used to pay for infrastructure that is the type that is included within its fee study.

To complicate matters the City broke out its development impact fee accounts into post-2011 (new) accounts and pre-2011 (old) accounts when the law changed. Only the new accounts, and not activity that occurred prior to the law change, is being reviewed. Nothing was found that would cause concern.

Mayor Nicholls asked **Froelich** if he was concerned if the name of a park has changed or if scope is really what he would be concerned about. **Froelich** stated that where you want to spend your development impact fee dollars, what park, is a political decision that councilmembers make. For the audit it was more about the dollars and whether they are consistent with the existing levels of service.

Wilkinson denied saying money was missing and clarified that when staff did a cut and paste something did not get carried down to the bottom but the financial documents were always correct.

Valenzuela questioned:

- Whether or not development fee money can be spent on something that is not in the Infrastructure Improvement Plan. For instance the 2013 IIP clearly lists the Yuma East Athletic Park and the Yuma Valley Area Park.
- End of fiscal year amounts versus the balance in the same line item being different the very next day. Valenzuela gave examples and questioned whether the auditor covered that information and had an explanation as to why there is either a lot of money missing or a lot of money that grows in those accounts over that one day period.

Mayor Nicholls responded that staff always tries to be as accurate as they can however we are a City made up of people and there will be errors and accidental things and that is not intentional it is part of the way things work and that is why you have audits and your back-check.

Wicks spoke about the two reports in question - FY18 versus FY17. The June 30, 2018 report agrees to the general ledger. The June 30, 2017 report no longer agrees to the general ledger because of some transaction timing that took place toward the end of the fiscal year. As transactions flow they can be recorded in one fiscal year or another. At the time that report was created for FY17 that is what the general ledger said and suspect that is what our auditor turned back to before he did his audit work.

Wicks explained that the City's true audit is based on a different statute entirely and is based on Generally Accepted Accounting Principles (GAAP). GAAP requires that we record expenditures in the period in which the expenditure is incurred, not when it is paid. There can be many transactions that can flow between one fiscal year and the next at the time of the real audit that pushes a number back into one fiscal year or pulls it into another fiscal year based on the timing of the incurred expense, irrespective of when it is paid. So the transaction was in the system at the later date and when the final audit of the entire City was completed that report was not adjusted to match. The FY18 report matches. Therefore the beginning balance is the correct one that is presented in the FY18 report. The transaction process to which his audit is directed would have included those transactions that flowed between one fiscal year and the next irrespective of when they landed on the report.

Motion: (Knight/Thomas): To close the public hearing. Voice vote: **approved 5-0**. The public hearing closed at 12:29 p.m.

With the public hearing now closed the Mayor opened the meeting up for City Council discussion.

Shelton requested clarification on Mr. Valenzuela's question about audits being done on time. **Froelich** responded that the audits have been performed in a timely manner.

Mayor Nicholls asked Froelich if after hearing the difference between the two audits, is that something easily seen by the auditors. **Froelich** said yes and explained that they are looking at activity occurring with the accounts primarily such as are you collecting the proper dollars for each building permit that you pull and are you expending those dollars for the infrastructure indicated within your IIP or your fee study. As explained Launch is not performing a GAAP audit but rather an audit showing the homebuilding community and the commercial development industry that the dollars they are paying for are being used for the infrastructure that you say you are collecting it for. We would have looked at all the transactions that were flowing through the accounts for that two year period and we are not as concerned as to whether they are being recorded properly because we are not applying GAAP accounting principles nor are we trying to attest to the City's financial condition as of appointment time. We are just really looking at the expenditure of dollars and the collection of dollars.

2. **MC2019-017 – Public Hearing: Land Use Assumptions & Infrastructure Improvements Plan**
Conduct a public hearing on the proposed Land Use Assumptions (LUA) and Infrastructure Improvements Plan (IIP). (Engineering)

Mayor Nicholls opened the public hearing at 12:32 p.m. and turned the meeting over to Andrew McGarvie.

Per the City Attorney, Richard File's, request **McGarvie's** presentation to City Council is attached to the minutes as Exhibit A.

Rick Gibson, 5930 N. Moccasin Trail, Tucson 85750, stated he is a director in a company called Sustainability Partners and they are investors in infrastructure. Sustainability Partners would like to help the City of Yuma fund projects in the form of a public/private partnership. Based in Tempe Arizona, they operate across the USA and currently work with cities, schools, hospitals, airports and prisons. Jobs include both new and retrofit, boilers, chillers, lighting, HVAC pumps/motors, wastewater, water, power stations, equipment and vehicles.

Mayor Nicholls asked if their services include roadway infrastructure or just vertical. **Gibson** stated they will do some roadway if it includes a lot of other work.

Thomas asked what type of energy they invest in. **Gibson** replied energy producing and energy efficiency facilities and products such as boilers, chillers, lighting and energy plants, not the actually building structure itself, but all the stuff that goes into it. **Thomas** questioned if they did anything solar or anything along those lines. **Gibson** stated they are beginning to look at solar in Phoenix.

Motion (Thomas/Knight) To close the public hearing. Voice vote: **approved 5-0**. The public hearing closed at 12:56 p.m.

Thomas questioned slide 25 titled *Land Use Assumptions* and the asterisk which states 'Annual percentage growth' and asked if that was estimated until the next audit or development fee implementation or how long that period is. **McGarvie** stated 10 years and stated it is a more linear progression. Also conditions do change depending on the economy.

Thomas continued by asking about the revised City fee recommendations, noting that the original version had higher Development Fees per Unit for streets. **McGarvie** confirmed the revised City fee recommendations would reduce the amount of income coming in to use on street infrastructure.

Mayor Nicholls asked about outreach and the extent of involvement from the development community regarding the revisions to the IIP. **Wilkinson** recalled 3 or 4 meetings where a representative from most of the major developers as well as representatives from the community attended. Although the final Tischler-Bise recommendations came up higher, the City is still recommending keeping development fees flat.

Mayor Nicholls asked and Wilkinson confirmed that the proposals presented by McGarvie, including intersections and street sections addressed in this form, were discussed with the committee. **Wilkinson** stated we may need to re-address the issue of bridges up on the Mesa but for right now they were taken out to try and keep the development fees as close to what we have right now.

Mayor Nicholls asked if the group considered spreading the reduction in fees to other categories besides just the streets. **Wilkinson** stated they did look at that but some of the other areas are critical. The City is already having problems keeping up with the roads so building more roads is just going to expand that maintenance need. **Mayor Nicholls** stated he would like to have seen the pain spread over the whole group but feels it is more important to talk about keeping the fees flat instead of going with the Tischler-Bise recommendation, and the fact that the recommendations came out of committee is important to know too.

Mayor Nicholls stated that with February 27th being the earliest we can adopt this is there more input by the public and what is the process moving forward. **McGarvie** replied that comments can be sent to Development Engineering or by contacting the City and we will incorporate them as much as we can.

II. EXECUTIVE SESSION

No Executive Session was held.

ADJOURNMENT

Being no further business, **Mayor Nicholls** adjourned the meeting at 1:03 p.m.

APPROVED:

Lynda L. Bushong, City Clerk

Douglas J. Nicholls, Mayor



LUA, IIP and Development Fees Introduction

Arizona Revised Statutes § 9-463.05.

- Generally development fees are assessed at time of issuance of a building permit for new construction.
- Statute restricts what development fees can be collected and used for.
- Development Fees can only be collected and used for necessary public services infrastructure in an amount attributable to growth.



CITY OF
Yuma

Necessary Public Services

- Fire and police facilities, including equipment and vehicles.
- Street facilities, including arterial and collector streets in an officially adopted plan.
- Parks and recreational facilities.
- A facility that was financed and that meets all of the requirements of ARS 9-463.05(R)
- Also development fees authorized for stormwater facilities, library facilities, water facilities, and wastewater facilities allowable.



CITY OF
Yuma

Yuma's categories

Yuma has five (5) categories of Development fees.

- Parks Infrastructure.
- Police Infrastructure.
- Fire Infrastructure.
- General Government Infrastructure.
- Street Infrastructure.



CITY OF
Yuma

Disallowed uses

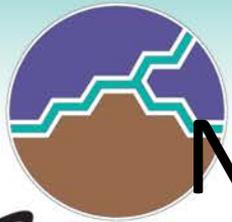
- Cannot be used for repair, maintenance, administrative or operating costs, which generally includes employee salaries.
- Development fees specifically cannot be used for items such as public safety training facilities, helicopters or airplanes, art and culture facilities, museums or golf courses.



CITY OF
Yuma

Designated Service Areas

- With development community participation the City of Yuma first implemented Development fees by ordinance in 2005.
- Prior to 2005, City of Yuma utilized Pro Rata Fees with limited service areas in the valley.
- 2005 City of Yuma repealed Pro Rata fees and adopted a single service area model.
- 2012, legislature changed statute and City adopted a two service area model for Citywide Development Fees

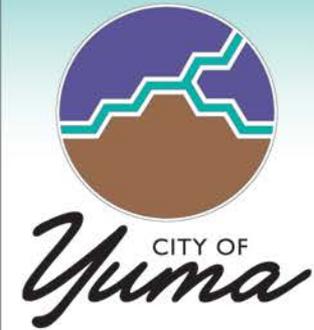


North and South Service Areas

CITY OF
Yuma



The public use of a map acknowledges that the user has no warranty or guarantee of accuracy of the data either graphical or textual.



Three Components

- **Land Use Assumptions (LUA)** – projections of changes in land uses, densities, intensities and population for a specified service area over 10 years
- **Infrastructure Improvements Plan (IIP)** – written plan that identifies each necessary public service or facility expansion that is proposed to be the subject of a development fee.
- **Development Fees** – actual fees adopted by City ordinance



CITY OF
Yuma

Development Fee Update

- O2012-06 development fee update.
- O2013-31 development fee update.
- O2019-xx update of development fees began with hiring of Tishler-Bise more than two years ago. By statute, “Before the adoption or amendment of a development fee, the governing body of the municipality shall adopt or update the land use assumptions and infrastructure improvements plan for the designated service area.”



CITY OF
Yuma

LUA & IIP Process

- The City held a public hearing on a proposed IIP & LUA as required by statute on April 5th, 2017.
- The April 2017 public hearing led to questions and additional outreach with the development community as well as revisions to the IIP.
- This public hearing is the result of that outreach, together with City staff and administrative changes that will be recommended for adoption of an updated IIP and LUA by resolution at a special City Council meeting scheduled for February 27, 2019



CITY OF
Yuma

Public Hearing

- Latest **draft** IIP is posted on the City's website and dated September 21, 2018.
- The latest **draft** LUA is also posted on City's website and dated March 14, 2018.
- In addition to City's website, both documents have been available in the City Clerk's Office.
- Since the last public hearing City administration and staff have substantially trimmed the Infrastructure Improvements Plan (IIP) in the Transportation projects and Parks and Recreation projects.



CITY OF
Yuma

Additional Amendment to the IIP

- Still have a need to amend current draft IIP prior to adoption.
- The proposed amendment concerns 28th Street Avenue C to 45th Avenue which in the past, has always been shown as an arterial.

Amendment to September 21, 2018 draft IIP



CITY OF
Yuma

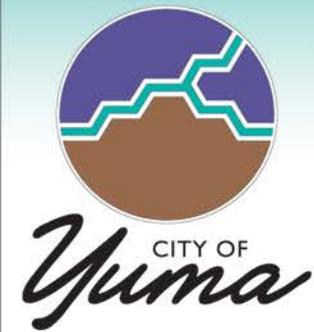
- Some may remember that the 2013 update to development fees was primarily driven by the development of the Parkwest subdivision where the developer requested the addition of 28th Street to the IIP to obtain street facilities development fee credits for the construction of 28th Street from Avenue C to 45th Avenue (Ave. C ½).
- The development agreement and the transfer of excess streets facilities development fees credit agreement (both approved by City Council) called for this segment of 28th Street to be designed as an arterial with the developer constructing two lanes of travel.

Amendment to September 21, 2018 draft IIP



CITY OF
Yuma

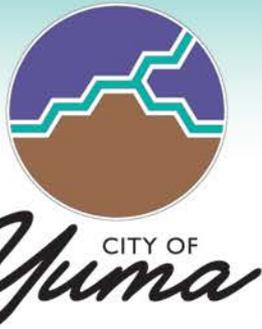
- In August 2018, the developer approached City staff and requested that this segment of 28th Street be built as a collector and classified in the IIP as a collector.
- This makes sense as in 2014, 28th Street was downgraded from an arterial street to a collector street when the City adopted the Transportation Master Plan (TMP) whereas the Major Roadways Plan in effect prior to the TMP showed 28th Street as an arterial.



Amendment to September 21, 2018 draft IIP

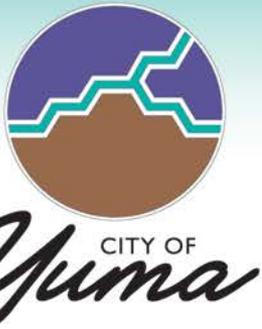
- A cost comparison was made and the current cost for 28th Street as a two lane collector (as designed) is more than was agreed to in the development agreements for construction of two lanes of arterial street.
- The remaining issue is how to treat 28th Street between Avenue C & 45th Avenue in the IIP which has always shown this segment as an arterial street rather than as a collector street.

Amendment to September 21, 2018 draft IIP



- The recommendation from City staff is to amend the September 21, 2018 draft IIP to show 28th Street from Avenue C to 45th Avenue as a collector street.
- This would be the first time the City has given development fee credits for a collector street.
- The statute and City Ordinance, however, allow the City to approve development fee credits for collector streets which alleviates the need for 28th Street as a planned arterial

Amendment to September 21, 2018 draft IIP



- Making this amendment would require a few wording changes, particularly on page 51 which shows the list of Streets Facilities as arterials on a Plan-based methodology.
- The biggest change would be something like substituting the words “street facilities” for the word “arterial” and inserting a footnote explaining that this segment of 28th Street was previously considered an arterial.
- City staff will work with the City Clerk to draft an appropriate motion prior to the February 27, 2019 proposed adoption date.



CITY OF
Yuma

Development Fee Calculations

Three Methods utilized

- Incremental expansion: Calculates a benefit ratio with existing population, thereby allowing expansion of infrastructure at the same ratio as population grows.
- Cost Recovery: Infrastructure is oversized with the knowledge that it is needed with the expected growth. (Gen. Gov. & Parks)
- Plan Based: Allocates costs for specified set of improvements to a specified amount of development.



Infrastructure Improvements Plan

- Analyze the current level of service.
- Estimate the additional items required to stay current with existing service.

Fire Facilities

- 1 Fire Apparatus @ \$800,000
- 1 Ambulance @ \$230,000
- Fire Station 7 (8,199 sq. ft.) @ \$2.61 million.



Infrastructure Improvements Plan

General Government Facilities

- City Hall debt recovery. 25% unoccupied space
- \$90,000 expected revenue over next 7 years.

Park & Recreation Facilities

- PAAC recovery of growth related debt of \$7.81 million.



CITY OF
Yuma

Infrastructure Improvements Plan

Police Facilities - Incremental expansion includes:

Addition of 23,486 square feet of Facilities.

Addition of 13.5 Vehicles.

Addition of \$12,750 worth of equipment.

Addition of 847 square feet of Fleet Service.



CITY OF
Yuma

Infrastructure Improvements Plan

Street Facilities

Arterials Streets – Plan Based

5 lane miles

Description	New Lane Miles ¹	Total Cost ¹
Ave 9E Widening, 24th St to N. Frontage Rd	3.00	\$1,800,000
40th St, Ave 6½E to Ave 8E	3.50	\$4,287,500
40th St, Ave 8E to Ave 10E	6.00	\$6,175,000
Ave 3½E Widening, 32nd St to 44th St	3.00	\$2,430,000
Ave 6E Widening, 32nd St to 48th St	4.00	\$5,450,000
32nd St Widening, Ave 6E to Ave 7E	2.00	\$2,625,000
28th St, 45th Ave to Avenue C	1.00	\$1,350,000
32nd St Widening, Avenue B to Avenue C	2.00	\$3,050,000
45th Avenue (East Half), 28th St to 24th St	0.50	\$670,000
Giss Pkwy, WB Off Ramp to 8th St/Castle Dome, 8th St, Castle Dome to Pacific Ave Pacific Ave, 8th St to 12th St	3.00	\$4,025,000
Total	28.00	\$31,862,500

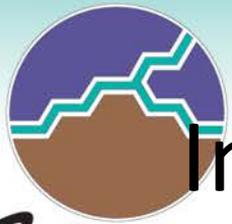


CITY OF
Yuma

Infrastructure Improvements Plan

- Intersections – Incremental Expansion
- Four intersection expansions

Description	Eligible Cost
18th St and Avenue C Traffic Signal	\$295,000
32nd St and Avenue C Traffic Signal	\$310,000
40th St and Ave 6E Traffic Signal	\$295,000
40th St and Ave 8E Traffic Signal	\$310,000
32nd St and Avenue B Turn Lanes	\$950,000
16th St and Pacific Avenue Turn Lane	\$175,000
16th St and Avenue B Turn Lane	\$175,000
24th St and Arizona Avenue Turn Lanes	\$350,000
32nd St and Avenue 7E Turn Lane	\$210,000
24th St and 1st Avenue Turn Lane	\$250,000
32nd St and Pacific Avenue Widening	\$1,450,000
Total	\$4,770,000



CITY OF
Yuma

Infrastructure Improvements Plan

- Bike Lanes – Incremental Expansion
- 5 lane miles

Description	New Lane Miles ¹	Total Cost ¹
Ave9E Widening, 24th St to N. Frontage Rd	3.00	\$585,000
40th St, Ave 6½E to Ave 8E	2.50	\$562,500
40th St, Ave 8E to Ave 10E	4.00	\$900,000
Ave3½E Widening, 32nd St to 44th St	3.00	\$585,000
Ave6E Widening, 32nd St to 48th St	3.00	\$675,000
32nd St Widening, Ave 6E to Ave 7E	2.00	\$450,000
28th St, 45th Ave to Avenue C	1.00	\$195,000
32nd St Widening, Avenue B to Avenue C	2.00	\$450,000
45th Avenue (East Half), 28th St to 24th St	0.50	\$97,500
Giss Pkwy, WB Off Ramp to 8th St/Castle Dome, 8th St, Castle Dome to Pacific Ave, Pacific Ave, 8th St to 12th St	3.00	\$585,000
Total	24.00	\$5,085,000



CITY OF
Yuma

Infrastructure Improvements Plan

- Bridges – Plan Based

Description	Total Cost ¹	Growth Share ¹	Growth Cost
Avenue 7E and 40th St Box Culvert at A Canal	\$1,870,000	63.8%	\$1,193,060
Total	\$1,870,000	63.8%	\$1,193,060



CITY OF
Yuma

Land Use Assumptions

- 1.23%* growth in residential development. LUA page 3.
 - 1.6%* growth in commercial development. LUA page 3.
 - 1.12%* year round residential growth (calculated). LUA page 7
 - 1.6%* total employment growth (calculated). LUA page 10.
 - 1.6%* total commercial square footage increase. LUA page 10.
 - 45.8% of all trips are Residential. LUA page 15.
 - 54.2% of all trips are Commercial LUA page 15.
 - 73% residential infrastructure demand hours. LUA page 16.
 - 27% nonresidential infrastructure demand hours. LUA page 16
- * Annual percentage growth.



CITY OF
Yuma

Development Fee Update

TischlerBise Recommended Fees

Residential Development		Development Fees per Unit						
Development Type	Fire	General Government	Parks and Recreation	Police	Streets	Proposed Fees	Current Fees	Difference
Single-Family	\$324	\$24	\$1,003	\$359	\$1,179	\$2,889	\$2,572	\$317
Multi-Family	\$226	\$17	\$699	\$250	\$886	\$2,078	\$1,957	\$121
All Other Types	\$188	\$14	\$582	\$209	\$674	\$1,667	\$1,498	\$169

Nonresidential Development		Development Fees per Square Foot						
Development Type	Fire	General Government	Parks and Recreation	Police	Streets	Proposed Fees	Current Fees	Difference
Commercial/Retail	\$0.52	\$0.01	\$0.00	\$0.55	\$1.71	\$2.79	\$1.92	\$0.87
Office/Institutional	\$0.86	\$0.01	\$0.00	\$0.22	\$0.74	\$1.83	\$1.18	\$0.65
Industrial	\$0.60	\$0.01	\$0.00	\$0.14	\$0.47	\$1.22	\$0.76	\$0.46
Hotel (per room)	\$114	\$2	\$0	\$110	\$380	\$606	\$498.00	\$108



CITY OF
Yuma

Development Fee Update

City of Yuma Fee Recommendation

Residential Development		Development Fees per Unit				
Development Type	Fire	General Government	Parks and Recreation	Police	Streets	Proposed Fees
Single-Family	\$324	\$24	\$1,003	\$359	\$862	\$2,572
Multi-Family	\$226	\$17	\$699	\$250	\$765	\$1,957
All Other Types	\$188	\$14	\$582	\$209	\$505	\$1,498

Nonresidential Development		Development Fees per Square Foot				
Development Type	Fire	General Government	Parks and Recreation	Police	Streets	Proposed Fees
Commercial/Retail	\$0.52	\$0.01	\$0.00	\$0.55	\$0.84	\$1.92
Office/Institutional	\$0.86	\$0.01	\$0.00	\$0.22	\$0.09	\$1.18
Industrial	\$0.60	\$0.01	\$0.00	\$0.14	\$0.01	\$0.76
Hotel (per room)	\$114	\$2	\$0	\$110	\$272	\$498