



City of Yuma City Council Meeting Agenda

Wednesday, July 16, 2025

5:30 PM

Yuma City Hall Council Chambers
One City Plaza, Yuma

Notice is hereby given, pursuant to Resolution R2015-047 that one or more members of the Yuma City Council may participate in person or by telephonic, video or internet conferencing. Voting procedures will remain as required by the Yuma City Charter and other applicable laws.

Those wishing to speak on an agenda item or during Call to the Public must complete a Speaker Request Form prior to the start of the meeting. Speaker Request Forms can be found on the City's website, in the Clerk's Office, as well as in the Council Chambers.

"Call to the Public" comments are limited to non-agenda items that pertain to City business under the authority and legislative functions of the City Council. The total time for "Call to the Public" is limited to 30 minutes.

Speaker Request Forms should be submitted to City clerk staff prior to the start of each meeting. All speakers, whether speaking on an agenda item or during "Call to the Public" are provided 3 minutes, with no more than 5 speakers permitted per topic/issue.

City Council Worksessions and Regular City Council Meetings can be viewed through the following platforms:

- Cable – Meetings are broadcast live on Spectrum Cable Channel 73.
- Live Stream – Residents can watch meetings on their computer or mobile device at www.yumaaz.gov/telvue. Previous Council meetings are also available on-demand.
- Virtual – Residents can watch meetings via Teams on their computer or mobile device at www.yumaaz.gov/publicmeetings. Click on "Calendar" then select the City meeting and click "Join".

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

FINAL CALL

Final call for submission of Speaker Request Forms for agenda related items.

ROLL CALL

I. MOTION CONSENT AGENDA

All items listed on the Motion Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a Councilmember so requests. In which event, the item will be removed from the Motion Consent Agenda and the vote or action may be taken separately.

A. Approval of minutes of the following City Council meeting(s):

1. [MC 2025-108](#) **Regular Council Meeting Draft Minutes May 7, 2025**
 Attachments: [2025 05 07 RCM Minutes](#)
2. [MC 2025-109](#) **Regular Council Meeting Draft Minutes May 21, 2025**
 Attachments: [2025 05 21 RCM Minutes](#)
3. [MC 2025-110](#) **Regular Council Worksession Draft Minutes June 17, 2025**
 Attachments: [2025 06 17 RWS Minutes](#)

B. Executive Sessions

Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A(1), (3), (4), and (7). (City Attorney)

C. Approval of staff recommendations:

1. [MC 2025-104](#) **Cooperative Purchasing Agreement: Electrical Energy Power Generation Equipment**
 Authorize the use of a cooperative purchase agreement initiated by Sourcewell for the purchase of a Caterpillar XQ125 Portable Generator with a 10-year/5000 Hour Warranty through Empire Power Systems HQ, Phoenix, Arizona, at an expenditure of \$112,636.00 (Utilities-CPA-26-008) (Jeremy McCall/Robin R. Wilson)

2. [MC 2025-105](#) **Cooperative Purchase Agreement: YRCS Dispatch Radio Equipment**
Authorize the purchase of dispatch radio equipment and services utilizing a Cooperative Purchase Agreement through the State of Arizona from Motorola Solutions, Inc. for a total amount of \$2,399,556.44. (IT/YRCS-GRT-26-006) (Jeremy W. Jeffcoat/Robin R. Wilson)
3. [MC 2025-107](#) **Transfer of Ownership: Police Canine**
Authorize the retirement and transfer of ownership of Yuma Police Department canine to the assigned handler. (Police/Patrol) (Thomas Garrity)

Attachments: [1. SUPP Transfer of K9 Ownership](#)

II. RESOLUTION CONSENT AGENDA

All items listed on the Resolution Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a City Councilmember so requests or a Speaker Request Form has been submitted. In which event, the item will be removed from the Resolution Consent Agenda and the vote or action may be taken separately.

1. [R2025-076](#) **Intergovernmental Agreement: Crane Elementary School District No. 13**
Authorize the execution of a one-year Intergovernmental Agreement (IGA) with Crane Elementary School District No. 13 for School Resource Officer (SRO) services. (Police/Patrol) (Thomas Garrity)
2. [R2025-077](#) **Preannexation Development Agreement: Tangerine and Tonic, LLC**
Authorize a Preannexation Development Agreement for property located at the southwest corner of 40th Street and Avenue 4¼ E (APN 724-01-007). (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

Attachments: [1. RES PDA: Tangerine and Tonic, LLC](#)
[2. AGR PDA: Tangerine and Tonic, LLC](#)

3. [R2025-078](#)**Preannexation Development Agreement: 2150 RV Park, LLC**

Authorize a Preannexation Development Agreement for the property located at 2150 W. 16th Street. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

Attachments:[1. RES PDA: 2150 RV Park, LLC](#)[2. AGR PDA: 2150 RV Park LLC](#)**III. ADOPTION OF GPLET LEASE**

This item must be adopted by a simple majority vote without the use of the consent calendar

1. [O2025-026](#)**GPLET Lease: Spencrazi, L.L.C.**

Adopt an ordinance authorizing: (1) accepting title to land and improvements on Parcel B of the Center Pointe Commons Lot Tie/Lot Split at the southwest corner of 16th Street and 4th Avenue; (2) an eight-year government property land and improvements lease with Spencrazi, L.L.C., as the statutory prime lessee; (3) abatement of the government property lease excise tax for the term of the lease; and, (4) reconveyance of the land and improvements to the prime lessee at the conclusion of the lease. (This item must be adopted by a simple majority vote without the use of the consent calendar) (City Attorney) (Richard Files)

Attachments:[1. ORD GPLET Lease Spencrazi LLC - Bubba's 33](#)[2. GPLET Lease Spencrazi LLC - Bubba's 33](#)[3. MEMO GPLET Lease Spencrazi LLC - Bubba's 33](#)[4. NOTICE GPLET Lease Spencrazi LLC - Bubba's 33](#)

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

All items listed on the Ordinances Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a City Councilmember so requests or a Speaker Request Form has been submitted. In which event, the item may be removed from the Ordinance Consent Agenda and the vote or action will be taken separately.

1. [O2025-025](#)

Annexation Area No. ANEX-43789-2025 Vision Assets

Authorize annexation of properties located at the northeast corner of W. 27th Street and S. 21st Drive. (ANEX-43789-2025)
(Planning and Neighborhood Services/Community Planning)
(Alyssa Linville)

Attachments:

[1. PET Annex Vision Assets](#)

[2. ORD Annex Vision Assets](#)

2. [O2025-027](#)

Acquisition of Union Pacific Railroad Property

Authorize the acquisition of approximately 14.32 acres of real property for future downtown redevelopment. (City Administrator)
(Jay Simonton)

Attachments:

[1. ORD Acquisition of Property](#)

V. INTRODUCTION OF ORDINANCES

The following ordinance(s) is presented to the City Council for introduction. No vote or action by the City Council is necessary. However, the City Council may, at its option, vote or take action where appropriate. Ordinances given introduction are generally presented to the City Council for adoption at the next Regular City Council meeting.

1. [O2025-028](#)

Yuma City Code Text Amendment: Public Nuisances

Amend Title 13, Chapter 134, Article 5 (Yuma City Code § 134-05) to include a defined procedure and standard for obtaining an Administrative Warrant allowing the City to inspect or remedy violations of the Property Maintenance Code on private property that pose a danger to life or property. (Building Safety) (Alyssa Linville/Randall Crist)

Attachments:

[1. ORD Text Amendment: Public Nuisances](#)

VI. ANNOUNCEMENTS AND SCHEDULING

Discussion and possible action on the following items:

1. Announcements:

City Council report on meetings/events attended – City Council report on issues discussed in meetings/events attended by a City Council representative in their official capacity as the City's representative during the period of July 3, 2025, through July 16, 2025. City Council questions regarding the update must be limited solely for clarification purposes. If further discussion is warranted, the issue will be added to a future agenda for a detailed briefing.

City Council report of upcoming meetings.

City Council request for agenda items to be placed on future agendas.

2. Scheduling:

Motion to schedule future City Council meetings pursuant to Arizona Revised Statutes Section 38-431.02 and the Yuma City Code, Chapter 30.

VII. SUMMARY OF CURRENT EVENTS

This is the City Administrator's opportunity to give notice to the City Council of current events impacting the City. Comments are intended to be informational only and no discussion, deliberation or decision will occur on this item.

VIII. CALL TO THE PUBLIC

Members of the public may address the City Council on matters within City Council's authority and jurisdiction that are not listed on the agenda during the "Call to the Public" segment of the meeting. All speakers must complete a Speaker Request Form and submit it to City Clerk staff no later than the "Final Call for Speaker Request Forms" is made at the beginning of each meeting.

IX. EXECUTIVE SESSION

An Executive Session may be called during the public meeting for the purpose of receiving legal advice for items on this agenda pursuant to A.R.S. Section 38-431.03 A (1, 3, 4 and/or 7) and the following items:

A. Discussion, consultation with and/or instruction to legal counsel regarding the following legal matters (ARS 38-431.03 A3, A4 and A7):

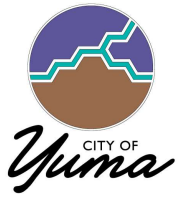
- 1) BJA v. City of Yuma
- 2) Quinn v. Yuma County, et al.
- 3) Jaramillo, et al. v. City of Yuma
- 4) Mullikin v. City of Yuma
- 5) Candela v. City of Yuma
- 6) Blankenship v. Allo, et al.
- 7) Jones v. Uber
- 8) Castillo v. Yuma County, et al.
- 9) Thompson v. City of Yuma
- 10) Quesada v. City of Yuma
- 11) O'Neal v. T&A, et al.
- 12) City of Yuma v. Yuma County Flood Control District
- 13) Claims against the City

B. Discussion with City Administrator regarding annual performance review. (A.R.S. 38-431.03 A1)

C. Discussion, consultation with and/or instruction to legal counsel regarding a potential Development Agreement with Juniper Tree Academy. (A.R.S. 38-431.03 A3, A4 & A7)

ADJOURNMENT

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of Yuma does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Department, One City Plaza, Yuma, AZ 85364-1436; (928) 373-5125 or TTY (928) 373-5149.



City of Yuma

City Council Report

File #: MC 2025-108

Agenda Date: 7/16/2025

Agenda #: 1.

Regular Council Meeting Draft Minutes May 7, 2025

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
MAY 7, 2025
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:32 p.m.

INVOCATION/PLEDGE

Pastor Efrain Zavala, First United Methodist Church, gave the invocation. **Thomas Garrity**, Chief of Police, led the City Council in the Pledge of Allegiance.

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms for agenda related items from members of the audience.

ROLL CALL

Councilmembers Present:	Martinez, Morris, McClendon, Smith, Morales, Watts, and Mayor Nicholls
Councilmembers Absent:	None
Staffmembers Present:	Acting City Administrator, John D. Simonton Chief of Police, Thomas Garrity Principal Planner, Amelia Domby Director of Engineering, Dave Wostenberg Various Department Heads or their representative City Attorney, Richard W. Files City Clerk, Lynda L. Bushong

Presentations:

- National/International Water Safety Month
Mayor Nicholls read a proclamation for National/International Water Safety Month proclaiming the month of May 2025 as Water Safety Month in the City of Yuma, and urged all residents, schools, caregivers and community organizations to join in the effort to make water safety a shared responsibility.
- Tourism Week
Mayor Nicholls read a proclamation proclaiming May 4 through May 10, 2025, National Travel and Tourism Week in Yuma, Arizona and encouraged the citizens of Yuma to recognize the critical role Travel and Tourism play in the community's economic prosperity and cultural diversity.
- Motorcycle Awareness Month
Mayor Nicholls read a proclamation proclaiming the Month of May 2025 as Motorcycle Awareness Month, informing the community how important it is for citizens of Yuma to be aware and observant of motorcycles on the roadways, and urged citizens to commend its observance.

I. MOTION CONSENT AGENDA

Motion Consent Item C.4 – Request for Qualifications Award: Architect and Engineering Services for Safe Streets for All (Authorize the City Administrator to execute a professional services contract for Architect and Engineering Services for Safe Streets for All (SS4A) at a total cost of \$600,000, to Kimley-Horn and Associates, Mesa, Arizona) (RFQ-25-156) (Eng/Purch)

Mayor Nicholls declared a conflict of interest on Motion Consent Agenda Item C.4 due to his firm's involvement, turned the meeting over to **Deputy Mayor Smith**, and left the dais.

Motion (Morris/Morales): To approve Motion Consent Item C.4 as recommended. Voice vote: **approved** 6-0-1, **Mayor Nicholls** abstaining due to conflict of interest.

Mayor Nicholls returned to the dais.

Motion (Morales/Smith): To approve the Motion Consent Agenda as recommended, with the exception of Item C.4, which was approved through a previous vote. Voice vote: **approved** 7-0.

A. Approval of minutes of the following City Council meeting(s):

Regular Council Meeting Minutes	February 19, 2025
Special Worksession/Council Retreat Minutes	March 24, 2025
Special Worksession/Council Retreat Minutes	March 25, 2025
Regular Council Meeting Minutes	April 2, 2025

B. Executive Session

Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (City Atty)

C. Approval of Staff Recommendations

1. Approve a Series #09: Liquor Store Liquor License application submitted by Marven Rahim, agent for EZ Shop Market located at 1334 S. 4th Avenue. (LL25-05) (Admn/Clk)
2. Approve a Series #07: Beer and Wine Bar/Location Transfer Liquor License application submitted by Paul Varela, agent for The First Round located at 333 S. Main Street. (LL25-06) (Admn/Clk)
3. Approve a Series #09S: Liquor Store with Sampling Privileges Liquor License application submitted by Faris Makou, agent for FFranco, LLC DBA Sunshine Market & Liquor located at 1997 S. Ave B. (LL25-01S) (Admn/Clk)
4. Pulled for separate consideration; see above.

5. Award a one-year contract to the lowest qualified bidder for Hazardous Waste Transport and Disposal with the option to renew for four additional one-year periods, one period at a time, depending on the appropriation of funds and satisfactory performance for an estimated annual expenditure of \$110,000.00, to the following firm: Clean Harbors Environmental Services, Inc., Norwell, Massachusetts. (RFB-25-295) (Pub Wrks/Purch)

II. RESOLUTION CONSENT AGENDA

Resolution R2025-046 – Memorandum of Understanding: Federal Bureau of Investigation (Approve a Memorandum of Understanding (MOU) with the Federal Bureau of Investigation (FBI) to allow participation in the Joint Terrorism Task Force) (YPD)

Discussion

- The Joint Terrorism Task Force is a collaboration between YPD and the FBI to be prepared for any potential threats coming to the community, regardless of whether they are foreign or domestic. A Task Force Officer will work part time and will use FBI technology to receive early warnings of threats coming to Yuma. Being that Yuma is a border town, there are people crossing the border from all over the world every day, including individuals on the terrorist watch list. Early indicators of threats will not only help with National Security but will also help with school threats by early detection of where the threats started. YPD will be aware and be able to better prepare if needed. The collaboration also helps YPD learn how to respond and prevent terrorist attacks in the community. **(Watts/Garrity)**
- Yuma Police Officers will not participate in FBI duties. In the event a YPD Officer does assist in FBI duties, the City will be reimbursed for the officers time by the FBI. **(Watts/Garrity)**
- This is the first time that YPD will be joining the Joint Terrorism Task Force. The intelligence gained to be better prepared as a Police Department and a community is invaluable. **(Mayor Nicholls/Garrity)**

Speakers

Charlene Young, City resident, spoke in opposition of Resolution R2025-046, stating that the MOU between YPD and the FBI threatens civil liberties and local control, risking unchecked surveillance, racial profiling and the targeting of activists under vague national security justifications.

Henry Mak, City resident, spoke in opposition of Resolution R2025-046. If approved, **Mak** believes the MOU could lead to unchecked surveillance, racial profiling and the targeting of any opposing force.

Cody Pease, City resident, spoke in opposition of Resolution R2025-046. **Pease** expressed concerns about civil liberties, local control, and the potential for unchecked surveillance and racial profiling if the resolution is passed.

Darlene Erwin, City resident, spoke in opposition of Resolution R2025-046 and called for a Councilmember to remove the resolution from the agenda. **Erwin** is concerned the City of Yuma will be paying their officers to do the FBI's job of fighting terrorism, including border security and deportation raids with the guise of keeping the community safe. **Erwin** suggests a thorough reading and expert guidance before YPD asks its officers to join the Joint Terrorism Task Force.

MAY 7, 2025

Jillian Verdugo, City resident, voiced her opposition of Resolution R2025-046 and asked for critical reforms to protect her rights. **Verdugo** believes the joint partnership gives the FBI significant influence over local police and may lead to racial profiling, surveillance of activists and a lack of accountability by the FBI.

Resolution R2025-047 – Economic and Historic Downtown Redevelopment Agreement: Hotel San Carlos of Yuma L.L.C (Approve the Economic and Historic Downtown Redevelopment Agreement (development Agreement) for the sale of the historic San Carlos Hotel and payment of \$300,000 to the City of Yuma) (Atty)

Speaker

Phil Clark, non-resident, raised concerns about the financial implications of the Hotel San Carlos property transaction, questioning the accuracy of the reported cash amount. **Clark** suggested full disclosure of the fact that the City will be coming up short more than three million dollars and stated that the seller should not have any proceeds at the close of escrow.

Motion (McClendon/Morales): To recess to Executive Session. Voice vote: **approved** 7-0. The meeting recessed at 6:09 p.m. City Council left the dais to convene Executive Session in the conference room.

Mayor Nicholls reconvened the City Council meeting at 6:36 p.m.

Continuing Discussion on Resolution R2025-046

- The MOU states that YPD officers and the Task Force officers will wear YPD body worn cameras and YPD will retain all body worn camera footage, including the footage from the Task Force officer's body worn camera. There is a requirement to provide a copy of the footage to the FBI, but the original footage will remain with YPD. (**Mayor Nicholls/Garrity**)
- If body worn camera footage needs to be released, the Special Agent in charge needs to be notified 72 hours beforehand to ensure redactions are done within FBI policy. YPD Officers will always wear YPD body worn cameras only; FBI cameras will never be worn by YPD officers. (**Mayor Nicholls/Garrity**)
- Staffing plans are to have two officers or two detectives that will be deputized for the Joint Terrorism Task Force and will work approximately eight hours a month with the FBI, except in the event of a major incident where the Task Force will respond to assist. (**Mayor Nicholls/Garrity**)
- An MOU is not required for YPD to assist the FBI with major incidents. However, not having an MOU makes it difficult to obtain information from the FBI. Officers assigned to the Task Force will have top secret clearance, making it easier to get information without any deterrents. (**Mayor Nicholls/ Garrity**)
- It was a management decision to assign two officers to the Task Force, having one to back up the other in case one officer is out. If for any reason the Task Force officers work overtime, the FBI will reimburse YPD for that time. (**Mayor Nicholls/Garrity**)
- YPD officers employed by the City of Yuma will follow YPD rules, including Use of Force policies. YPD does not tolerate any racial profiling or First Amendment violations. Officers found in breach of these policies are subject to dismissal. (**Mayor Nicholls/Garrity**)

Continuing Discussion on Resolution R2025-047

- It is difficult to adjust a project when looking at the option of remaining stagnant on a certain property or adjusting the balance sheet to be able to benefit the community. The City is looking to work with a non-profit organization, and just like banks, when working with non-profit organizations the City should tread lightly and show their support. Yuma will be better for it. (Morales)

Resolution R2025-041 – Intent to Create Municipal Improvement District No. 132: Butler Estates Unit 2 Subdivision (approve the creation of Municipal Improvement District (MID) No. 132 to serve Butler Estates Unit 2 Subdivision located at the southwest corner of E. 37th Street and S. Avenue 10E) (Plng & Nbhd Svcs/Cmty Plng)

Resolution R2025-043 - Intent to Create Municipal Improvement District No. 134: Butler Estates Unit 1 Subdivision (approve the creation of Municipal Improvement District (MID) No. 134 to serve Butler Estates Unit 1 Subdivision located at the southwest corner of E. 36th Street and S. Avenue 10E) (Plng & Nbhd Svcs/Cmty Plng)

Mayor Nicholls declared a conflict of interest on Resolutions R2025-041 and R2025-043 due to his firm's involvement, turned the meeting over to **Deputy Mayor Smith**, and left the dais.

Motion (Morales/Watts): To adopt Resolutions R2025-041 and R2025-043 as recommended.

Bushong displayed the following title(s):

Resolution R2025-041

A resolution of the City Council of the City of Yuma, Arizona, declaring its intention to create Municipal Improvement District No. 132, serving Butler Estates Unit 2, to operate, maintain and repair landscaping improvements included within, near and adjacent to the retention and detention basins and parkings and parkways and related facilities together with appurtenant structures of Butler Estates Unit 2 (formation of an MID to provide the operation, maintenance and repair of landscape improvements for Butler Estates 2) (Plng & Nbhd Svcs/Cmty Plng)

Resolution R2025-043

A resolution of the City Council of the City of Yuma, Arizona, declaring its intention to create Municipal Improvement District No. 134, servicing Butler Estates Unit 1, to operate, maintain and repair landscaping improvements included within, near and adjacent to the retention and detention basins and parkings and parkways and related facilities together with appurtenant structures of Butler Estates Unit 1 (formation of an MID to provide the operation, maintenance and repair of landscape improvements for Butler Estates 1) (Plng & Nbhd Svcs/Cmty Plng)

Roll call vote: **adopted** 6-0-1, **Mayor Nicholls** abstaining due to conflict of interest.

Mayor Nicholls returned to the dais.

Motion (Morris/Smith): To adopt the Resolution Consent Agenda as recommended, with the exception of Resolutions R2025-041 and R2025-043 which were adopted through a previous vote.

Bushong displayed the following titles:

Resolution R2025-033

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement for the Joint Operation and use of a Regional Schools Safety System and Program between the City of Yuma and Somerton School District No. 11 (to provide terms and conditions for the joint use and operation of the School Safety Interoperability System) (IT)

Resolution R2025-034

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement with Arizona Department of Transportation for the scoping of South Frontage Rd and Avenue 10E project (to install a traffic signal and right turn lane at the intersection of South Frontage Road and Avenue 10E) (Eng)

Resolution R2025-035

A resolution of the City Council of the City of Yuma, Arizona, approving and authorizing an Intergovernmental Agreement for the scoping services to install three pedestrian hybrid beacon crossing (16th Street at Arcadia Lane, 8th Street at 5th Avenue, 8th Street at Clifford Way) (Eng)

Resolution R2025-036

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement with Arizona Department of Transportation for the scoping of Avenue B and 3rd Street traffic signal project (to install a traffic signal in the intersection) (Eng)

Resolution R2025-037

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement with Arizona Department of Transportation for the scoping of the 32nd Street and Cielo Verde Drive project (to improve safety at the intersection) (Eng)

Resolution R2025-038

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement with the Arizona Department of Transportation to scope a safety countermeasure (project) to realign the curves on Redondo Center Drive between 16th Street and Interstate 8 (I-8) ramps (flattening of 3 horizontal curves on Redondo Center Drive) (Eng)

Resolution R2025-039

A resolution of the City Council of the City of Yuma, Arizona, ordering improvements for Municipal Improvement District No. 128 serving Desert Sands Units 4-6, to operate, maintain and repair landscaping improvements included within, near and adjacent to the retention and detention basins and parkings and parkways and related facilities, together with appurtenant structures of Desert Sands Units 4-6 as more particularly described in this resolution, and declaring the landscape improvements to be of more than local or ordinary public benefit, and the cost of the landscape improvements assessed upon Municipal Improvement District No. 128; improvements shall be performed under Arizona Revised Statutes (A.R.S) Title 48, Chapter 4, Article 2 (intended to provide long-term maintenance for subdivision landscaping) (Plng & Nbhd Svcs/Cmty Plng)

Resolution R2025-040

A resolution of the City Council of the City of Yuma, Arizona, ordering improvements for Municipal Improvements District No. 131, serving Villa Serena Unit No. 2 Subdivision, to operate, maintain and repair landscaping improvements included within, near and adjacent to the retention and detention basins and parkings and parkways and related facilities together with appurtenant structures of Villa Serena Unit No. 2 Subdivision, as more particularly described in this resolution, and declaring the landscape improvements to be of more than local or ordinary public benefit, and the cost of the landscape improvements shall be assessed upon Municipal Improvement District No. 131; improvements shall be performed under Arizona Revised Statutes Title 48, Chapter 4, Article 2 (intended to provide long-term maintenance for subdivision landscaping) (Plng & Nbhd Svcs/Cmty Plng)

Resolution R2025-042

A resolution of the City Council of the City of Yuma, Arizona declaring its intention to create Municipal Improvement District No. 133, serving Kahuna Estates, to operate, maintain and repair landscaping improvements included within, near and adjacent to the retention and detention basins and parkings and parkways and related facilities together with appurtenant structures of Kahuna Estates (formation of an MID to provide the operation, maintenance and repair of landscape improvements for Kahuna Estates) (Plng & Nbhd Svcs/Cmty Plng)

Resolution R2025-044

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with Kenneth Halverson for Assessor Parcel Number 699-54-001 located at 9485 E. Stetson Street (to connect to City Services, the well servicing the residence is exceeding the recommended contaminant levels) (Plng & Nbhd Svcs/Cmty Plng)

Resolution R2025-045

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a lease agreement between the City of Yuma and Tal PHX Holdings, LLC of City-Owned property located at 1610 South Maple Avenue (a three-year lease for retail sale of cellular telephones) (Admn/Atty)

Resolution R2025-046

A resolution of the City Council of the City of Yuma, Arizona, authorizing the City of Yuma to enter into a Memorandum of Understanding with the Federal Bureau of Investigation for purposes of City participation in the Joint Terrorism Task Force (to formalize and maximize the cooperation and cohesiveness between the FBI and the City Yuma Police Department) (YPD)

Resolution R2025-047

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Economic and Historic Downtown Redevelopment Agreement between the City of Yuma and Hotel San Carlos of Yuma, LLC (to redevelop the property as market rate residences, or into a hotel with national branding) (Atty)

Roll call vote: **adopted** 7-0.

III. INTRODUCTION OF ORDINANCES

Bushong displayed the following title(s):

Ordinance O2025-013

An ordinance of the City Council of the City of Yuma, Arizona, granting a setback and parking easement to the abutting property owner (7th Street right-of-way is approximately 20,928 square feet) (Eng)

Ordinance O2025-014

An ordinance of the City Council of the City of Yuma, Arizona, vacating the real property hereafter described and authorizing execution of all necessary documents for transfer thereof (vacate 28th Street right-of-way to Top Quality Products, LLC) (Eng)

IV. PUBLIC HEARING AND RELATED ITEMS

Ordinance O2025-015 – Rezoning of Property: Near the Southeast Corner of Avenue 9E and 24th Street (The planning and Zoning Commission recommends denial of this rezone request by a vote of 4-2) (Plng & Nbhd Svcs/Cmty Plng)

Mayor Nicholls opened the public hearing at 6:49 p.m.

Amelia Domby presented the following information:

- Request to rezone the property from the Agriculture (AG) District to the low Density Residential (R-1-6)
- The subject property is located near the southeast corner of Avenue 9E and 24th Street
- Approximately 33.38 acres in size
- The property was annexed and rezoned from Agriculture (AG) to Low Density Residential (R-1-40) in 2019; however, that rezone request expired in 2021
- Applicant is requesting to rezone the property to the Low Density Residential (R-1-6) District
- The applicant is proposing a single-family residential subdivision with approximately 85 lots
- Land use designation for this property is Low Density Residential District, this request is in conformance with the General Plan
- Staff notifies neighbors within 300 feet of the subject Property
- A neighborhood meeting was held on February 12, 2025, on site, with eight neighbors in attendance
 - During the meeting neighbors residing in the Patagonia Development, north of the subject property, expressed their concern with traffic congestion, subdivision landscaping, open space, and property values
 - Neighbors mentioned Yuma County was recently awarded a grant through the Railroad Crossing Elimination (RCE) Grant program
 - Neighbors suggested providing more open space and providing four larger lots to mirror the existing four lots within the Patagonia subdivision, to alleviate some of the concerns
- Developer has been working with City Engineering staff to address the traffic concerns
- Developer has provided an interim solution and will continue to work with staff through the subdivision design plat process
- Capital Improvement Program (CIP) Project Number 0441-ROAD2 is a capacity increase project on Avenue 9E from 24th Street to North Frontage Road for a new four-lane roadway and bridge widening, this project is currently in the design phase

- After neighbors addressed concerns about the railroad and school traffic backing up along Avenue 9E, the applicant proposed interim improvements that will allow the residents additional access in/out of the subdivision
- For the rezone process, a conceptual site plan was completed identifying the 85 lots, showing several easements running through the property, and the lot sizes ranging from 6,000 square feet to about 19,000 square feet
- On March 24, 2025, the Planning and Zoning Commission held a public hearing where neighboring property owners expressed their concern with the rezone request
- Member of the Planning and Zoning Commission were concerned about the proposed density and traffic along Avenue 9E
- The Planning and Zoning Commission recommends denial of the rezone request to rezone the property to the Low Density Residential (R-1-6) District

Speakers

The following people spoke about the proposed rezoning of property near Avenue 9E and 24th Street to add 85 residential lots. They expressed their concerns about traffic congestion, lack of common areas, and the impact on property values.

- Quincy Smith
- Kyla Smith
- Sheldon Scheffer
- Kristina Scheffer
- Paul Rios

Motion (Smith/Morales): To close the Public Hearing. Voice vote: **approved** 7-0. The Public Hearing closed at 7:05 p.m.

Discussion

- CIP project 0441-ROAD2 was moved to the 2026 CIP to expedite the project. This is an expense the City was already going to incur and although it does not immediately solve the issue, the City has a plan in place to increase lanes in the future. **(Morales)**
- The developer provided some additional right-of-way for residents to enjoy outdoor activities safely and away from traffic. **(Morales)**
- East of the properties is an Arizona Public Service (APS) station and Martha's Gardens that is currently accessed through Blaisdell Road. Conflicting information has been reported that Blaisdell Road might close, and traffic will be directed elsewhere. City planners need to monitor this matter on how it will impact the neighborhood. **(Morales)**
- If it is within the developers means, complementary aesthetics that coordinate with what has already been done by owners of the neighboring lots is supported. New neighborhoods should have a common area for families, but also understand that costs have increased, and adjustments need to be made to what was planned ten years ago. **(Morales)**
- The developers have agreed to include a walking path in the neighborhood even before bringing it to a City Council meeting agenda. **(Mayor Nicholls)**
- This property is not an easy property to design, as it is filled with easements in different directions making it challenging to come up with something feasible. The City should reconsider requiring the new owner to meet the same standards as the previous owner when it didn't work out in the past. **(Morris)**

- In the proposal the developer offered to dedicate 12½ feet to the City right-of-away for the entire west side of the property and pay for the improvements for the entire length of the property. That is a major obligation by the developer to help with the traffic issue. **(Morris)**
- The neighborhood west of the property is R-1-6 District and the new neighborhood will fit in well if rezoned to R-1-6. These are not low income or starter homes. These homes have a market value in the \$350,000 range. While these homes may not be affordable to many, the homes do have a positive impact on affordable homes by being available to current owners of affordable homes to level up and purchase a next level of home. **(Morris)**
- Additional conditions placed on the developer regarding the rezoning is not supported. **(Morris)**
- After speaking with homeowners, traffic continued to be a major issue. However, when speaking with the City Planners, the CIP project of the road widening and the double track for the railroad will help with the traffic issue tremendously. Hopefully after the homes are planned, developed, and plotted out, the widening of the road will be completed. **(Watts)**
- Five homes in front of the existing homes are reasonable. The aesthetic should match the already built homes and the low-density district will work in that aspect. **(Watts)**
- It is unfortunate the property was sold to a developer with different ideas than what the original developer brought to the table, which is why some homes on those properties were initially bought. It is encouraged that the new developer takes the existing homeowners concerns into consideration and honor them the best they can. **(Martinez)**
- Without raising false hopes, current homeowners and future homeowners should have a good relationship and good communication with the developer, ultimately coming to a compromise and hopefully find a resolution and come to an agreement about the development of the property. **(Morales)**
- It will take approximately a year and a half to complete the designs for CIP Project 0441-Road2. Consideration also needs to be given to: utilities that may need to be relocated, finalizing the right-of-way acquisition, and identifying funding of about \$10 million for the project. The project is anticipated to be completed by 2028 or 2029. **(Smith/Wostenberg)**
- Regarding Blaisdell and Araby Road, one side of the road has been abandoned and will be closed off when the road widening project is complete. The City has been working closely with consultants, developers and engineers on how to move some of the traffic through the neighborhood, but at the same time keep the APS easement open. **(Wostenberg)**
- Even if there were no Covenants, Conditions, and Restrictions (CCR) in place, homeowners would still have to follow minimum development standards for R-1-6 which include setbacks, lot coverage and height restrictions. **(Smith/Domby)**

Bushong displayed the following title:

Ordinance O2025-015

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in the Agriculture (AG) District to the Low Density Residential (R-1-6) District, and amending the zoning map to conform with the rezoning (site is currently undeveloped and is approximately 33.38 acres in size) (Plng & Nbhd Svcs/Cmty Plng)

V. BUDGET DISCUSSION

Morales requests a presentation on two items to have an open discussion:

- The first item requested was a status update of the combination of Space Port and Elevate Southwest as they will be working together on the Space Port project. The update should include where the funding is coming from, what agencies the City is working with for this project, and a status on Mexico joining the project.
- The Second item pertains to the Outside Agency Summary Report. An updated summary is requested of the agencies that the City is supporting and the relationship the City has with each agency. The presentations should be done before the June 18, 2025, City Council meeting.

VI. ANNOUNCEMENTS AND SCHEDULINGAnnouncements

Smith, Morales, Watts, McClendon, Morris, Martinez, and Mayor Nicholls reported on the following meetings attended and upcoming events:

- Children's Festival of the Arts
- Community Roundtable on Water in Yuma
- 2025 Yuma County Nurses Gala
- 12th Annual Etiquette Luncheon at Arizona Western College (AWC)
- Yuma Click & Fix Promotion Video
- Republican Monthly Meeting
- Council Budget Meeting
- Arbor Day Celebration
- AWC Xi Zeta Chapter of the Beta Sigma Phi Sorority Donation Presentation
- Yuma Metropolitan Planning Organization, Arizona Department of Transportation Presentation
- Tour of the City of Yuma Municipal Court
- Vistara Apartment Ribbon Cutting Ceremony
- AWC Culinary Class
- Yuma Harvest Preparatory Academy for the National Day of Prayer
- Americans with Disabilities Act (ADA) Commission Meeting
- Cristina's Closet Gala
- Joint Land Usage Plan (JLUP) Committee Meeting
- Affordable Housing Workshop
- Western Arizona Council of Governments (WACOG) Orientation
- National Fraternal Order of Police Meeting
- Bring Your Child to Work Day Event
- National Water Resources Association Annual Meeting in Washington, DC.
- Yuma Truck Driving School 15th Anniversary
- 4FrontEd Board Meeting

Scheduling

Motion (Morales/Watts): To resume the scheduling of Regular City Council Worksessions on each Tuesday prior to regular scheduled City Council Meetings, beginning June 3, 2025, with an agenda to be posted in accordance with state law. Voice vote: **approved** 7-0.

VII. SUMMARY OF CURRENT EVENTS

Simonton reported the following events:

- Simonton informed the community of free swimming lessons for children six months to five years of age. Thanks to partnerships with the Yuma County Health Services District, Prison Hill Liquid Foundation and funding through the U.S. Consumer Product Safety Commission's Pool Safety Grant Program, the City was awarded 250 scholarships for swim lessons available to all Yuma County residents. Registration is on a first-come first-served basis.

VIII. CALL TO THE PUBLIC

Mike Shelton, City resident, suggested bringing a ten-foot water slide to the City as an appealing attraction. **Shelton** recommended the waterslide be a part of the Kennedy Pool complex since those discussions and plans are still in progress.

Anthony Felix, City resident, voiced his concerns about the management of a past case involving the Yuma Police Department.

IX. EXECUTIVE SESSION/ADJOURNMENT

Motion (Smith/Morales): To adjourn the meeting to Executive Session. Voice vote: **approved** 7-0. The meeting adjourned at 7:50 p.m.

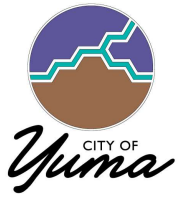
Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:

City Clerk: _____



City of Yuma

City Council Report

File #: MC 2025-109

Agenda Date: 7/16/2025

Agenda #: 2.

Regular Council Meeting Draft Minutes May 21, 2025

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
MAY 21, 2025
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:32 p.m.

INVOCATION/PLEDGE

Pastor Tom Renard, Zion Church, gave the invocation. **Madeleine Coil**, Grants Administrator, led the City Council in the Pledge of Allegiance.

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms for agenda related items from members of the audience.

ROLL CALL

Councilmembers Present:	Martinez, Morris, McClendon, Smith, Morales, Watts, and Mayor Nicholls
Councilmembers Absent:	None
Staffmembers Present:	Acting City Administrator, John D. Simonton Grants Administrator, Madeleine Coil Various Department Heads or their representative City Attorney, Richard W. Files Deputy City Clerk, Janet L. Pierson

PRESENTATIONS

Great American Defense Community Award

Coil introduced **Matt Borron**, Executive Director of the Association of Defense Communities (ADC). **Borron** stated that he was honored to name the City of Yuma the “51st Great American Defense Community” that ADC has recognized over the past 10 years. **Borron** noted that ADC receives nearly two dozen applicants each year from which only three are selected. **Mayor Nicholls** thanked ADC, and everyone associated with the recognition.

I. MOTION CONSENT AGENDA

Motion (McClendon/Morales): To approve the Motion Consent Agenda as recommended. Voice vote: **approved 7-0.**

A. Approval of minutes of the following City Council meeting(s):

Regular City Council Meeting Minutes

March 19, 2025

B. Executive Session

Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (City Atty)

C. Approval of Staff Recommendations

1. Approve a Series #09: Liquor Store/Owner Transfer Liquor License application submitted by Allen Mikha, agent for El Fuego Market and Liquor located at 2200 W. 3rd Street. (LL25-07) (Admn/Clk)
2. Approve a Series #12: Restaurant Liquor License application submitted by Juanita Esparza, agent for Sunkissed Coffeehouse located at 3860 W. 24th Street #109. (LL25-08) (Admn/Clk)
3. Authorize the purchase of concrete work for the Yuma Civic Center utilizing the Asphalt and Concrete Maintenance Services agreement at an expenditure of \$215,381.20 awarded to Gutierrez Canales Engineering, PC, Yuma, Arizona. (RFQ-22-089) (Eng/Purch)
4. Award a construction services contract for 28th Street Widening-45th Avenue to 33rd Drive, to the lowest responsive and responsible bidder in the amount of \$4,136,000.00 to DPE Construction, Yuma, AZ. (RFB-22-171) (Eng/Purch)
5. Award a construction services contract for the Edenwood Estates Pavement replacement to the lowest responsive and responsible bidder in the amount of \$2,073,500 to DPE Construction, Inc., Yuma, Arizona. (RFB-22-242) (Eng/Purch)
6. Award a one-year contract with the option to renew for four additional one-year periods, one period at a time, depending on the appropriation of funds and satisfactory performance for Environmental, Geotechnical and Materials Testing and Related Services with the following three firms: Geotechnical Testing Services, Inc., Yuma, Arizona, Nicklaus Engineering, Inc., Yuma, Arizona, Ninyo & Moore Geotechnical & Environmental Sciences Consultants, Phoenix, Arizona. (RFQ-25-225) (Eng/Purch)
7. Authorize settlement of the Torres Notice of Claim. (Atty)

II. RESOLUTION CONSENT AGENDA

Resolution R2025-048 - Intergovernmental Agreement: Arizona Department of Transportation – Comprehensive Safety Action Plan (authorize the City Administrator to execute an Intergovernmental Agreement with the Arizona Department of Transportation to develop a Comprehensive Safety Action Plan for the City of Yuma) (Eng)

Resolution R2025-050 – Intergovernmental Agreement Amendment: Arizona Department of Transportation – Pedestrian Hybrid Beacons (authorize the City Administrator to execute Amendment No. One to the Intergovernmental Agreement with the State of Arizona Department of Transportation (ADOT) dated October 20, 2023 reducing the scope of work due to funding issues from the original three pedestrian hybrid beacons (PHB) to two PHBs. This is a Highway Safety Improvement Program (HSIP) project and is 100% grant funded at a total amount of \$1,660,238.00) (Eng)

Mayor Nicholls declared a conflict of interest on Resolution R2025-048 and R2025-050, due to his firm's involvement in the projects, turned the meeting over to **Deputy Mayor Smith**, and left the dais.

Motion (Morris/McClendon): To adopt the Resolution R2025-048 and R2025-050 as recommended.

Pierson displayed the following title(s):

Resolution R2025-048

A resolution of the City Council of the City of Yuma, Arizona, approving and authorizing an Intergovernmental Agreement with the Arizona Department of Transportation to develop a comprehensive safety action plan (identifying and prioritizing safety improvements that accommodate all modes of transportation and users) (Eng)

Resolution R2025-050

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving Amendment No. One to the Intergovernmental Agreement with Arizona Department of Transportation dated October 20, 2023, for the design and construction of Pedestrian Hybrid Beacons at 32nd Street and Michigan Avenue and Avenue C at Central Canal North of 22nd Lane (eliminates one pedestrian hybrid beacon location at Avenue C and Crane Street) (Eng)

Roll call vote: **adopted** 6-0-1, **Mayor Nicholls** abstaining due to conflict of interest.

Mayor Nicholls returned to the dais.

Motion (Morales/Smith) To adopt Resolution R2025-049 as recommended.

Pierson displayed the following title:

Resolution R2025-049

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with Rod and Ella Seibel for Assessor Parcel Number 699-54-004 located at 9437 E. Stetson Street (allowing connection to City of Yuma services as the well servicing the residence is exceeding the recommended contaminant levels, according to the Arizona Department of Environmental Quality) (Plng & Nbhd Svcs/Cmty Plng)

Roll call vote: **adopted** 7-0.

III. ADOPTION OF ORDINANCES CONSENT AGENDA

Motion (Morris/McClendon): To adopt the Ordinances Consent Agenda as recommended.

Pierson displayed the following title(s):

Ordinance O2025-013

An ordinance of the City Council of the City of Yuma, Arizona, granting a setback and parking easement to the abutting property owner (to acquire an easement within the 7th Street Right-of-Way to meet the minimum setback requirements) (Eng)

Ordinance O2025-014

An ordinance of the City Council of the City of Yuma, Arizona, vacating the real property hereafter described and authorizing execution of all necessary documents for transfer thereof (28th Street right-of-way; approximately 0.6039 acres) (Eng)

Ordinance O2025-015

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in the Agriculture (AG) District to the Low Density Residential (R-1-6) District, and amending the zoning map to conform with the rezoning (near the southeast corner of 9E & 24th Street; site is currently undeveloped and is approximately 33.38 acres in size) (Plng & Nbhd Svcs/Cmty Plng)

Roll call vote: **adopted** 7-0.

IV. INTRODUCTION OF ORDINANCES

Pierson displayed the following title(s):

Ordinance O2025-016

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in the Agriculture (AG) District to the Heavy Industrial (H-I) District, and amending the zoning map to conform with the rezoning (area is part of the Estancia Development Area, which was planned as a mixed-use development comprised of 3,741.5 acres) (Plng & Nbhd Svcs/Cmty Plng)

Ordinance O2025-017

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 130 of the Yuma City Code, as amended, relating to animals and fowl, to comply with State Statute (text amendment provides greater opportunities for residents to keep and maintain domestic fowl) (Plng & Nbhd Svcs/Cmty Plng)

Ordinance O2025-018

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, relating to the keeping of large animals (amendment will provide uniformity within the Zoning Code) (Plng & Nbhd Svcs/Cmty Plng)

Ordinance O2025-019

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, relating to zoning regulations, providing for changes to the zoning code to amend development regulations and expand the permitted zoning districts for accessory dwelling units (changes are designed to increase housing options, promote sustainable development, and provide greater opportunities for affordable living in Yuma) (Plng & Nbhd Svcs/Cmty Plng)

Ordinance O2025-020

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, relating to development regulations within the planned unit development overlay (text amendment updates and clarifies aspects of the Planned Unit Development regulations) (Plng & Nbhd Svcs/Cmty Plng)

V. BUDGET AND RELATED ITEMS

MC 2025-076 – Public Hearing: Fiscal Year 2026 – Fiscal Year 2030 Capital Improvement Program (Conduct a public hearing for the proposed Fiscal Year 2026 – Fiscal Year 2030 City of Yuma Capital Improvement Program pursuant to Yuma City Charter, Article XIII, Section 11) (Eng)

Mayor Nicholls declared a conflict of interest on MC 2025-076, due to his firm's involvement in Capital Improvement Program projects, turned the meeting over to **Deputy Mayor Smith**, and left the dais.

Deputy Mayor Smith opened the public hearing at 5:49p.m.

Morales requested a presentation at the first Worksession in June regarding the Space Port project. **Simonton** will be preparing the presentation for the June 17, 2025, Worksession.

Motion (Morales/Watts): To close the Public Hearing. Voice vote: **approved** 6-0-1, **Mayor Nicholls** abstaining due to conflict of interest. Public Hearing closed at 5:52 p.m.

Mayor Nicholls returned to the dais.

MC 2025-077 – Tentative Annual Budget for Fiscal Year 2026 (Adopt the Fiscal Year 2026 Tentative Annual Budget in the amount of \$547,121,059 which includes a Capital Improvement Plan budget of \$221,254,573; combined Maintenance Improvement Districts of \$636,884; and Operating Expenditure/Expense Budget of \$325,229,602 including Governmental and Enterprise operations) (Admn/Fin)

McClendon declared a conflict of interest on the Visit Yuma budget adoption, due to being employed by Visit Yuma, and left the dais.

Motion (Morris/Watts): To adopt the Fiscal Year 2026 Tentative Budget for Visit Yuma in an amount not to exceed \$890,000.

Voice vote: **adopted** 6-0-1, **McClendon** abstaining due to conflict of interest.

McClendon returned to the dais.

Mayor Nicholls declared a conflict of interest on the CIP budget adoption as his firm works on some of the CIP projects, turned the meeting over to **Deputy Mayor Smith**, and left the dais.

Motion (Watts/Morales): To adopt and publish for the June 18th budget hearing, the Fiscal Year 2026 Tentative Budget for the Capital Improvement Program in the amount of \$221,254,573.

Voice vote: **adopted** 6-0-1, **Mayor Nicholls** abstaining due to conflict of interest.

Mayor Nicholls returned to the dais.

Motion (Smith/Watts): To approve and publish for the June 18th budget hearing, the Fiscal Year 2026 Tentative Budget in the amount of \$324,976,486 which excludes Visit Yuma funding and the Capital Improvement Program, as approved through the prior motions.

Voice vote: **approved** 7-0.

VI. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Appointments

Motion (McClendon/Watts): To appoint Mark Rummel and Pamela Clark to the ADA Advisory Commission, with a term expiration of December 31, 2025. Voice vote: **approved 7-0.**

Announcements

Smith, Watts, Morris, Martinez, and Mayor Nicholls reported on the following meetings attended and upcoming events:

- Visit Yuma Open House Celebrating National Travel and Tourism Week
- 48th Annual Peace Officer Memorial Service
- Sunset View Wildlife Area Ribbon Cutting Ceremony
- Kofa Student Council Meeting
- National Emergency Medical Services (EMS) Week Celebration and Award Ceremony
- Water Safety Workshop on behalf of the Greater Yuma Water Safety Alliance
- Western Arizona Council of Governments (WACOG) Executive Meeting
- Greater Yuma Economic Development Corporation (GYEDC) Luncheon
- Yuma Coalition to Attend Homelessness Meeting
- Yuma County Anti-Drug Coalition Meeting
- Arizona Attorney General Kris Mayes Town Hall Meeting
- Visit Yuma Monthly Board Meeting
- National Junior College Athletic Association (NJCAA) Softball Tournament hosted by Arizona Western College
- Back 2 Nature Learning Center - Nurturing Growth in Childcare Entrepreneurship
- Yuma Crossing National Heritage Area Monthly Board Meeting
- Yuma County Chamber of Commerce Monthly Meeting
- Kofa High School Marine Corp Junior Reserve Officer Training Corp (JROTC) Awards Night
- Investment Group & Wealth Management - Come Wine with Us Event
- Arizona League of Cities and Towns Executive Committee Meeting
- Yuma Sector Border Patrol Law Enforcement Memorial
- Republican Attorneys General Association Border Visit

Scheduling – No meetings scheduled at this time.

VII. SUMMARY OF CURRENT EVENTS

Simonton reported the following event(s):

- May 24th – Valley Aquatic Center open swim starts

Simonton notified the community that City Hall will be closed Monday, May 26, 2025, in observance of Memorial Day; the closure will affect the trash pick-up service schedule.

MAY 21, 2025

Mayor Nicholls invited the community to the prayer service for baby Sonny, who was found in a trash bin outside a local business. The prayer service will be held May 22, 2025, at Saint Francis of Assisi Catholic Church at 2 p.m.

Deputy Mayor Smith asked for suggestion on how to remind the community about Safe Haven areas where newborns can safely be surrendered. **Simonton** proposed creating some public service announcements to inform the community about the Safe Haven sites around the City.

VIII. CALL TO THE PUBLIC

Henry Mak, City resident, spoke regarding the Joint Terrorism Task Force Memorandum of Understanding between the Federal Bureau of Investigation and the City of Yuma. **Mak**, who is also a teacher in the City, shared his concerns with the MOU and his students reactions and questions about the agreement.

Lauren Heitzman, City resident, spoke in opposition of placing a stop light at the corner of 10E and South Frontage Road, and suggested 40th Street as an alternative route to reduce congestion.

IX. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 6:20 p.m. No Executive Session was held.

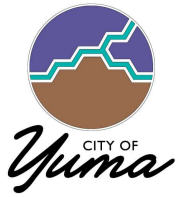
Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:

City Clerk: _____



City of Yuma

City Council Report

File #: MC 2025-110

Agenda Date: 7/16/2025

Agenda #: 3.

Regular Council Worksession Draft Minutes June 17, 2025

MINUTES
REGULAR CITY COUNCIL WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS - YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
June 17, 2025
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the Regular City Council Worksession to order at 5:34 p.m.

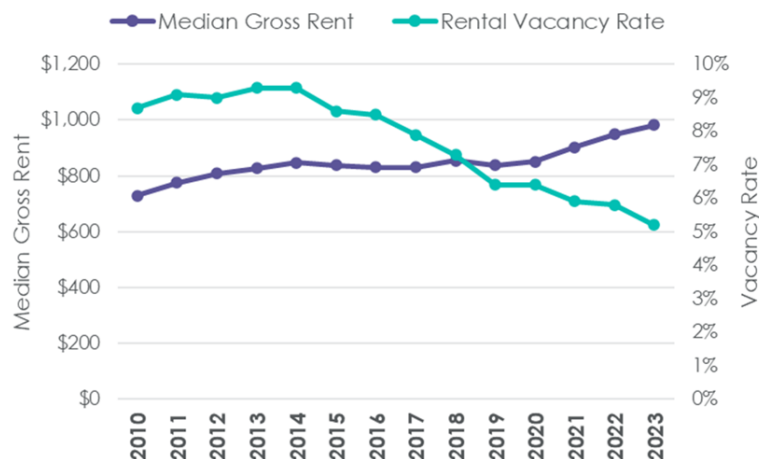
Councilmembers Present: Martinez, Morris, McClendon, Smith, Morales, Watts, and Mayor Nicholls
Councilmembers Absent: None
Staffmembers Present: Acting City Administrator, John D. Simonton
Neighborhood Services Specialist, Kassandra Granados
Chief of Police, Thomas Garrity
Director of Finance, Douglas Allen
Director of Engineering, David Wostenberg
Various department heads or their representatives
City Attorney, Richard W. Files
City Clerk, Lynda L. Bushong

I. AFFORDABLE HOUSING PLAN BRIEFING

Granados introduced **Avilia Bueno**, Economist with Root Policy Research, to present the following briefing on the Affordable Housing Plan:

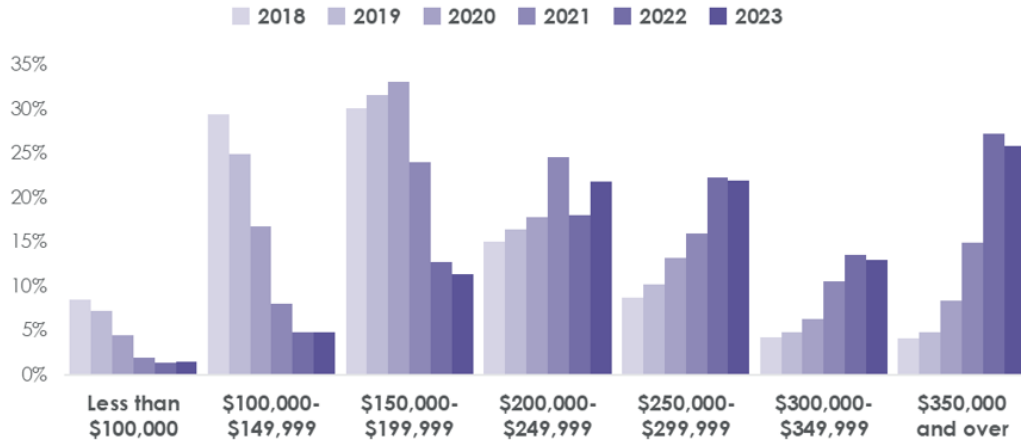
- Housing Affordability and Housing Needs in Yuma
 - Rent and Vacancy
 - The Median Gross Rate was somewhat stable between 2010 and 2020, but after the pandemic rent started to accelerate.
 - The Rental Vacancy Rate was also moderately stable up until 2014 but has decreased over the past 10 years.

Median Gross Rent and Rental Vacancy Rate, City of Yuma, 2023



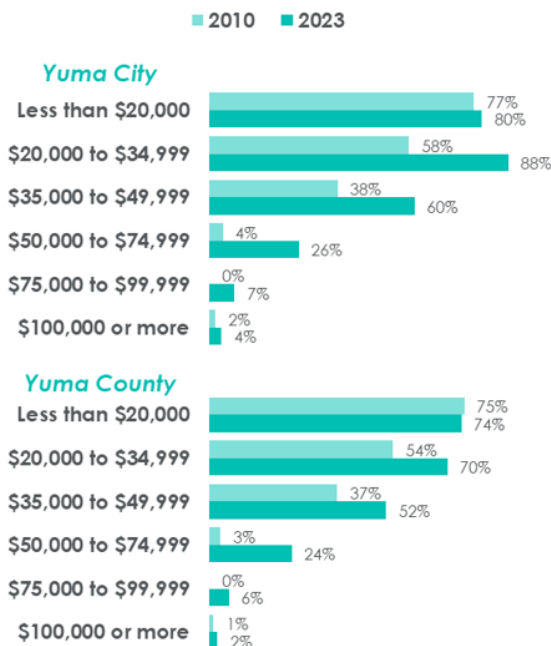
- Declining Availability of Affordable Homes
 - In 2018, 68% of homes bought with a mortgage in the county were under \$200,000. By 2023, that number dropped to 18%, while homes priced above \$250,000 rose from 17% to 61%.

Property Value Distribution of Mortgage Loan Originations, Yuma County, 2018-2023

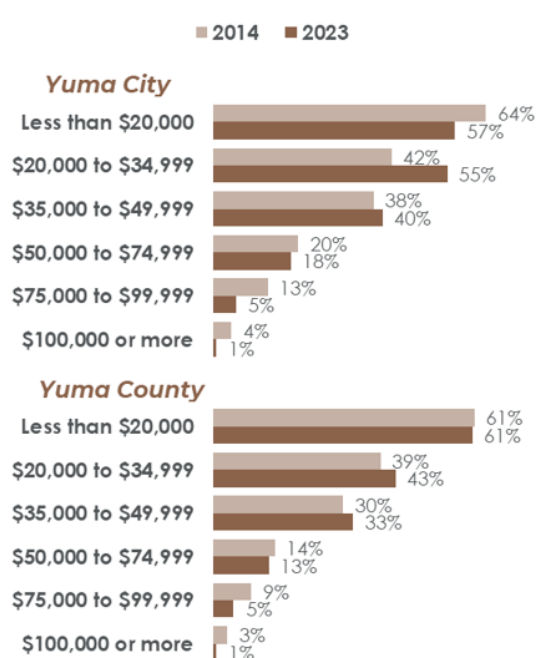


- Housing Needs
 - Rising cost burdens
 - Renters earning less than \$20,000 faced high cost burdens
 - 77% of low-income renters paid over 30% of their income in rent in 2010; this rose to 80% by 2023.
 - Middle-income renters, specifically those in the \$35,000 to \$75,00 income bracket, have experienced a significant rise in cost burden.

Renter Cost Burden



Homeowner Cost Burden



- Stakeholder Engagement
 - Community engagement activities conducted to inform this study included interviews and an interactive workshop with housing service providers, property developers, City staff, and a focus group with members of the Attainable Housing Committee.
 - Engagement Findings:
 - Renters and Voucher Holders Face Major Barriers
 - Rising rents exceed voucher limits, reducing landlord participation.
 - Homeownership is Out of Reach for Many
 - Escalating home prices, interest rates, and insurance costs have made homeownership unaffordable, even with increased down payment assistance.
 - Overcrowding, Substandard Conditions, and Seasonal Instability
 - Many families live in overcrowded or unsafe housing. Housing needs are exacerbated during the summer due to seasonal economic downturns.
 - Development Barriers
 - High construction costs, high interest rates, limited funding, and land constraints slow housing development. However, recent interest in Accessory Dwelling Units (ADUs) and multifamily development shows some momentum.
 - Community Priorities and Strategy Support
 - Stakeholders prioritize new construction and preservation of affordable housing, followed by investments in education and public awareness. Support exists for innovative financing, ADU promotion, and targeted zoning reforms.
- Strategy Framework
 - Recommendations are structured around three objectives:
 - Objective 1: Support the new construction of affordable housing and preserve existing affordable housing
 - Objective 2: Increase education, communication, and information on housing affordability to increase support for and access to affordable housing
 - Objective 3: Support financing for new construction and preservation, and expand funding sources for affordable housing
 - These objectives aim to help address Yuma's most pressing housing challenges by increasing the supply of affordable housing, enhancing public understanding and support for diverse housing options, and strengthening the financial tools necessary to make housing projects feasible.
 - The housing action plan should be viewed as a living document that is continually updated in response to evolving economic conditions, population dynamics, and shifting community needs. This will ensure the plan remains relevant and responsive to changes.
- Objective 1. Support the new construction of affordable housing and preserve existing affordable housing.
 - The goals under this objective are centered on strengthening Yuma's affordable housing landscape through a combination of infrastructure upgrades, preservation efforts, innovation, and regulatory reform.

- Action 1.1. Continue investing in redevelopment, revitalization, and infill of older neighborhoods
- Action 1.2. Support the acquisition and/or rehabilitation of naturally occurring affordable housing
- Action 1.3. Explore innovative construction methods
- Action 1.4. Affordable housing zoning overlay
- Action 1.5. Continue removing barriers to the development of ADUs
- Action 1.6. Review tap fees and other development fees to encourage different housing types and the production of smaller homes
- Objective 2. Increase education, communication, and information on housing affordability to increase support for and access to affordable housing.
 - The goals for this objective focus on strengthening public understanding, access, and support around affordable housing in Yuma.
 - Action 2.1. Promote and build support for affordable housing
 - Action 2.2. Improve resident access to housing information and resources
 - Action 2.3. Support efforts to increase resident rights information in manufactured home communities
- Objective 3. Support financing for new construction, preservation, and seek to expand funding sources for affordable housing.
 - The goals for this objective focus on expanding and strengthening the financial foundation needed to support affordable housing development in Yuma.
 - Action 3.1. Work with developers to better understand the financing barriers to missing middle projects and consider partnerships with financial institutions to address such barriers
 - Action 3.2. Seek and leverage General Fund allocations
 - Action 3.3. Advocate for state- and local-level policy reform

Discussion

- Those whose housing costs exceed 30% of their income are considered cost burdened. Detailed statistics on cost burden are included in the Housing Needs Assessment and Affordable Housing Plan. (**Mayor Nicholls/Bueno**)
- Housing vouchers help pay rent and follow the household, but there is a persistent shortage of vouchers due to limited federal allocation and market conditions. The Housing Authority of the City of Yuma manages the vouchers; more information on Yuma's supply of vouchers can be obtained from them and will be provided to City Council (**Morris/Bueno/Granados**)
- The new housing being constructed near 8th Street and Avenue A is market rate (**Watts/Bueno**)
- The City has taken a proactive stance on housing policy reform, having achieved success with policies such as the code amendment recently adopted regarding Accessory Dwelling Units. While Yuma is not seen as problematic by developers, ongoing efforts are encouraged in areas including development fees and review timelines. (**Mayor Nicholls/Bueno**)
- A significant issue in Yuma County, especially in San Luis, is overcrowding, which is defined as more than one person per room. Overcrowding masks other problems such as homelessness. The City regularly reviews the community's housing needs, and they will likely be assessed again for the next Consolidated Plan. (**Morales/Bueno**)

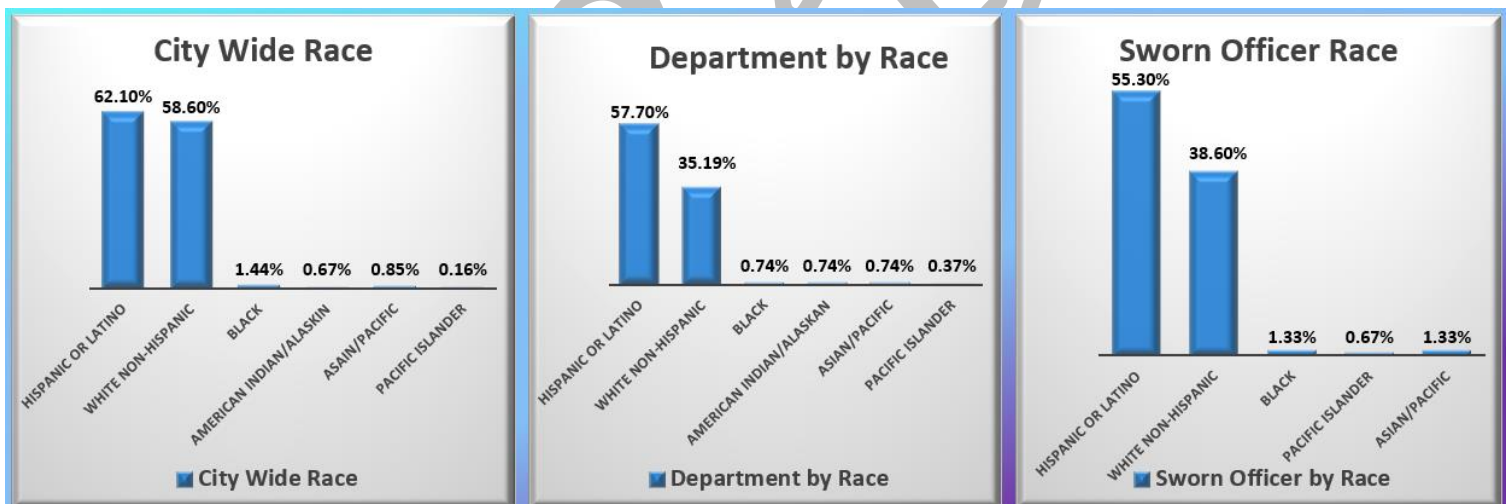
- Overcrowding is calculated based on all rooms in a house, not just bedrooms. Yuma's larger families and intergenerational living contribute to higher overcrowding rates compared to places like Maricopa County. Lifestyle differences make direct comparisons challenging, but the metric is still important for discussion. **(Mayor Nicholls/Bueno)**
- Concerns regarding overcrowding arise from the overall size of the house, especially during situations like COVID-19 where additional space was required for isolation. Rent increases can be attributed to multiple factors including low vacancy rates and rising construction costs. Addressing these issues involves increasing housing supply. Higher-paying jobs could also help residents afford higher rents. **(Mayor Nicholls/Martinez/Bueno)**
- Yuma has no legislation mandating landlords to accept vouchers, meaning there is no source-of-income discrimination law in place. **(Smith/Bueno)**
- Marketing and pre-approved plans could help the City's ongoing efforts to remove barriers to the development of ADU's. Innovative construction methods that the City could consider exploring include modular and tiny homes. Affordable housing zoning overlays would be similar to existing infill overlays, but with a specific focus on affordability incentives. **(Morris/Bueno)**

II. YUMA POLICE DEPARTMENT ANNUAL REPORT

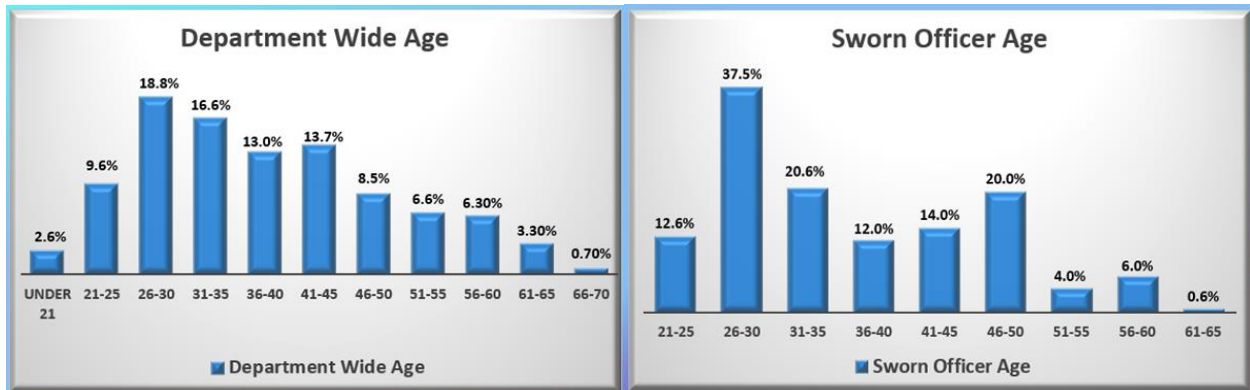
Garrity presented the Yuma Police Department (YPD) Annual Report as follows:

- Quick Facts
 - Current Staffing Levels
 - Sworn authorized – 167
 - Civilian authorized – 124
 - General Information
 - FY 2023-2024 Adjusted Budget – \$44,778,878
 - FY 2024-2025 Adjusted Budget – \$51,735,834
 - City square miles – 121
 - Population – 103,559 full-time residents
 - Officer per 1,000 residents – 1.6 (authorized)
- 2024 Grants
 - Operation Stonegarden
 - Awarded \$969,023 utilized for:
 - Overtime and mileage funding
 - Two 4x4 pickup trucks with three Mobile Data Computers
 - One All-Terrain Vehicle
 - 12 sets of binoculars
 - State Homeland Security Grant
 - Awarded \$84,060 to purchase two mobile barricades
 - Governor's Office of Highway Safety
 - Awarded \$54,319 in overtime funding to target DUI, traffic enforcement, and materials and supplies.
 - Arizona Department of Administration
 - Awarded \$1.35 million for the School Safety Interoperability Fund, which provides financial support for safety programs in schools, helping to set up secure communication systems for public safety and educational agencies.

- Edward Byrne Memorial Justice Assistance Grant
 - Awarded \$50,668.00 to cover the cost of mobile data devices, increasing successful prosecutions, improving response and filed operations, enhancing real-time information sharing, and reducing violent crimes through increased productivity, resource utilization, and capabilities.
- Arizona Department of Public Safety
 - Anti-Human Trafficking
 - Awarded \$135,900 to enhance services and programs that reduce human trafficking by providing resources for personnel, equipment, and training to combat human trafficking within the state.
 - \$50,000.00 for an unmarked vehicle
 - \$85,900.00 for equipment and software
 - Livescan
 - Awarded a Livescan device worth over \$35,000.00 to assist in comprehensive biometric identification. It allows for the secure capture, storage, and management of biometric data, including fingerprints, palm prints, facial features, and iris capture.
- Demographics
 - Race
 - Department and Sworn Officer race demographics are fairly consistent with the community's overall race demographics.
 - YPD is attracting quality officers locally, which is important because they better understand the importance of serving their own community.

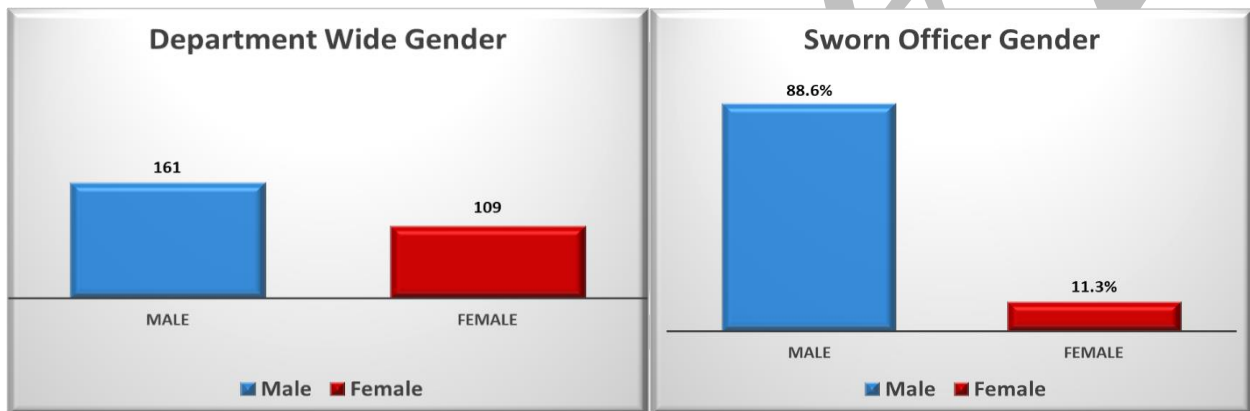


○ Age



○ Gender

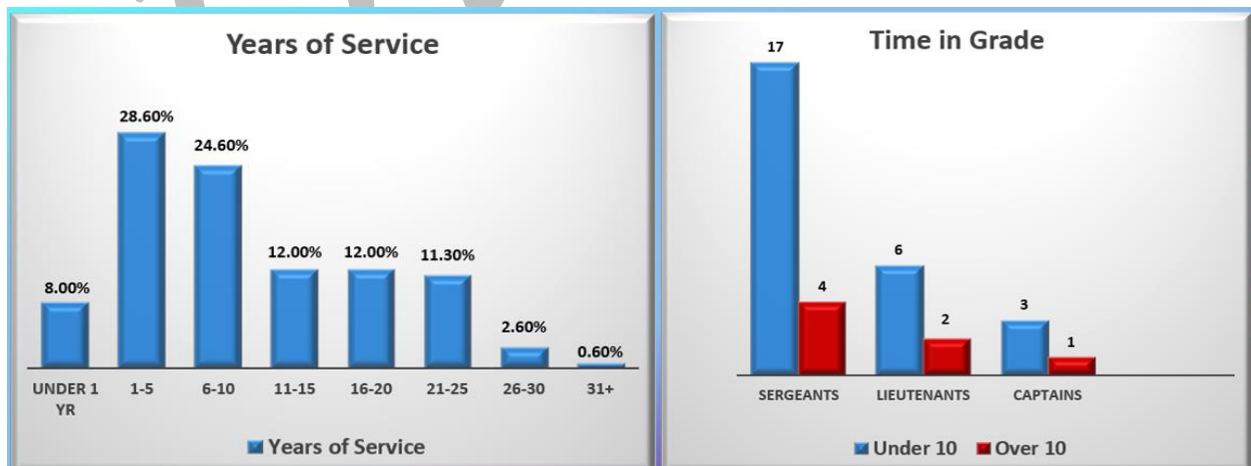
- While there is a disparity in sworn personnel gender, recruitment efforts among the different demographics are proving to be effective; of the 13 officers who are scheduled to start on July 7th, five are female.



● Sworn Personnel Overview

○ Years of Service and Time in Grade

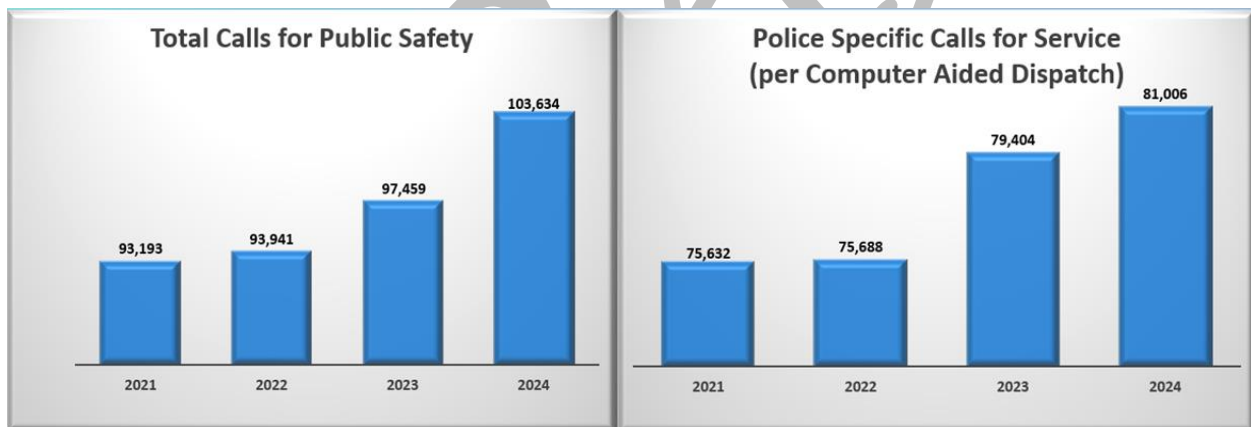
- The majority of YPD has less than 10 years of service, indicating stability and promising long-term retention. Notably, 17 sergeants also have under 10 years of service, positioning them as future leaders of the department.



- Hiring and Turnover
 - In the past year, 27 officers were hired from 1,000 applicants due to strict standards aimed at ensuring quality service.
 - Despite losing 19 officers due to various reasons, the department has a net gain of eight officers.



- Statistical Data
 - Total Calls
 - Total calls increased by about 5% over the past year.
 - Police Specific Calls
 - Over 80% of all calls received by dispatch are police-related.



- Workload Data
 - Calls Requiring Law Enforcement Response
 - There was a small increase in calls requiring a law enforcement response.
 - Total Reports by Type
 - While there was a slight decrease in total reports, traffic accident reports stayed fairly steady.



- Crime Overview
 - Violent Crime
 - Violent Crime consists of Murder, Aggravated Assault, Robbery and Sexual Assaults.
 - Based on the National Incident-Based Reporting System (NIBRS) classification.
 - Victims are always individuals, and one crime will be counted for each victim
 - Down 9.75% compared to 2023
 - Cases: 425
 - Clearance: 55.06%
 - The murder clearance rate last year was 100%
 - Murder cases are down 80% from 2023
 - Many murders are domestic violence incidents, so prevention efforts are focused on education, early intervention, and support services such as those provided by Amberly's Place.
 - Crime Overview
 - The two homicide cases consisted of a bad drug deal in an apartment and an officer-involved shooting
 - Robbery cases are down nearly 50%
 - Fraud cases have increased, which is linked to the rise in Bitcoin-related activities

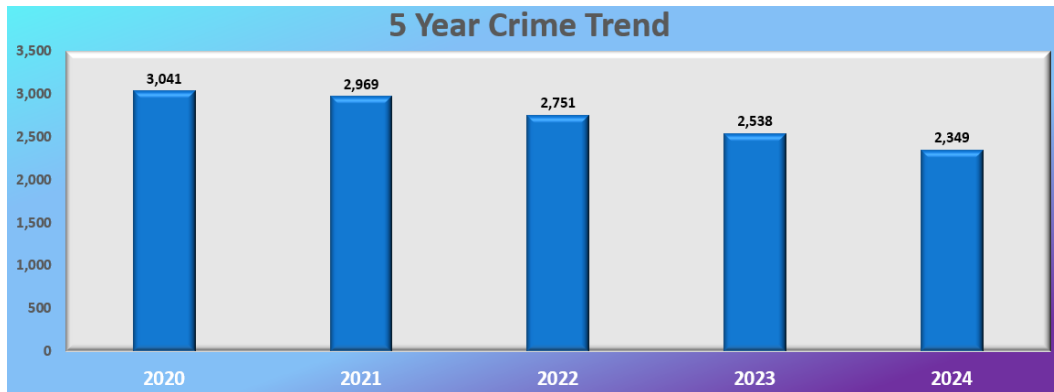
CRIME OVERVIEW – 2024 Compared to 2023

• HOMICIDE: Cases: 2	↓ -80.00%
• AGGRAVATED ASSAULT: Cases: 362	↓ -4.23%
• ROBBERY: Cases: 24	↓ -48.94%
• SEXUAL ASSAULT: Cases: 37	↑ +5.71%
• BURGLARY: Cases: 202	↓ -36.28%
• MOTOR VEHICLE THEFT: Cases: 165	↓ -20.67%
• FRAUD: Cases: 372	↑ +3.62%
• ARSON: Cases: 15	↓ -11.76%
• LARCENY: Cases: 909	↓ -5.31%

- Crime Trends

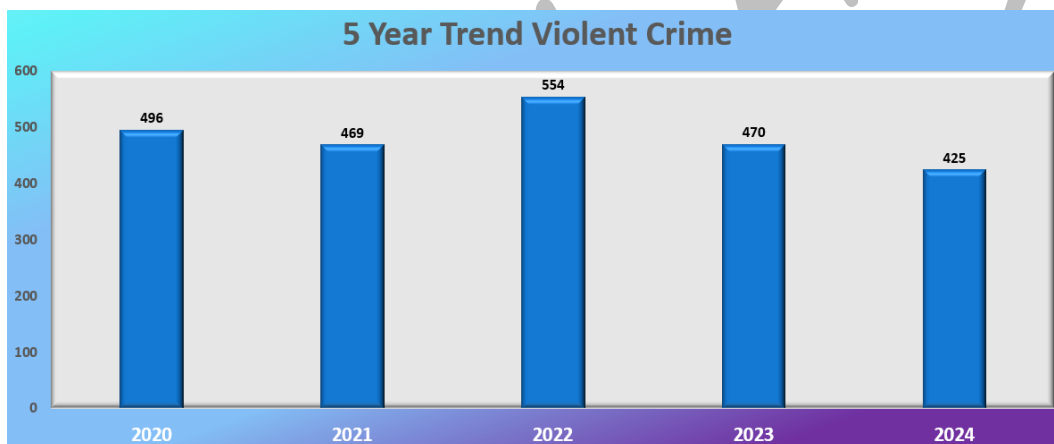
- Five-Year Crime Trend

- Overall, crime has decreased consistently over the past five years



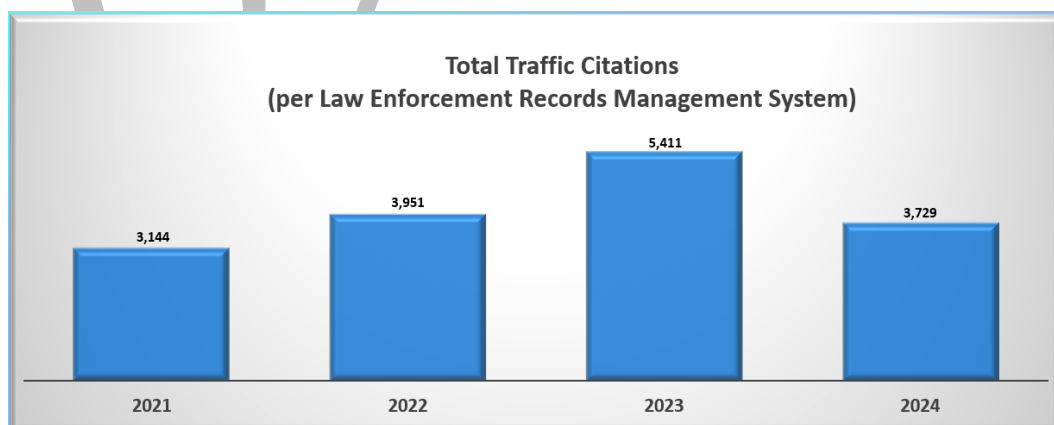
- Five-Year Trend – Violent Crime

- Violent crime has remained relatively stable, with a significant decrease observed after the peak in 2022

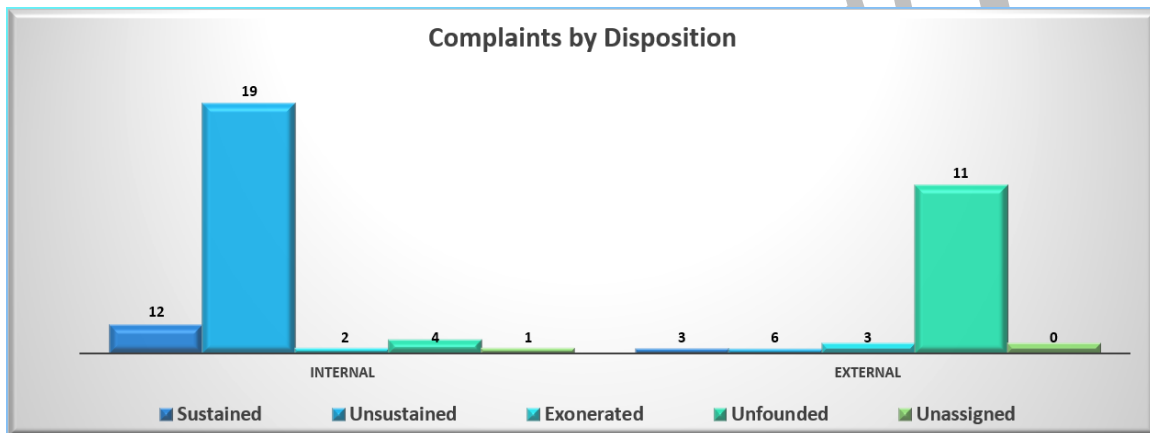


- Traffic Citations

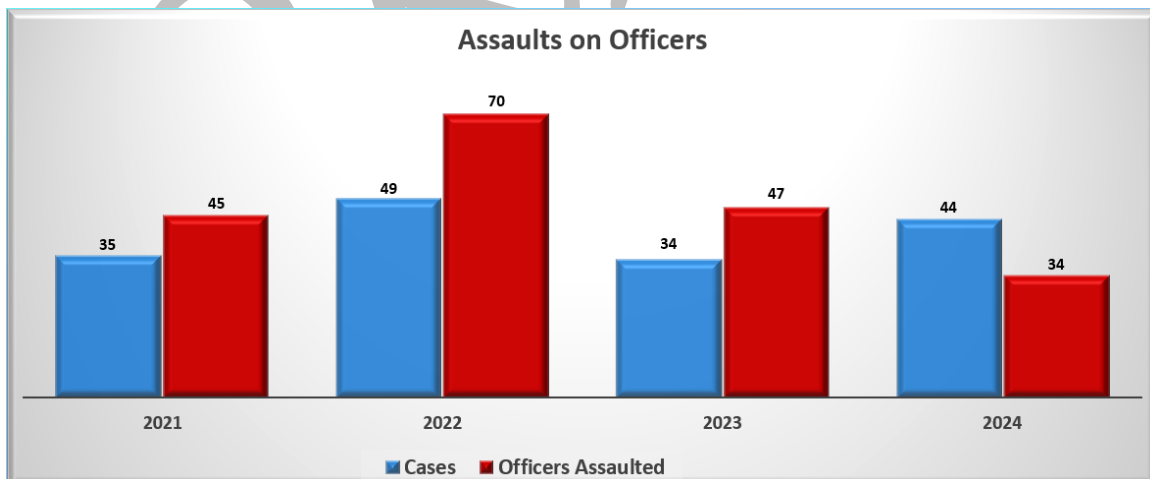
Traffic citations decreased due to two traffic units being out for most of the year. Efforts are underway to improve, and current numbers are already surpassing last year's pace



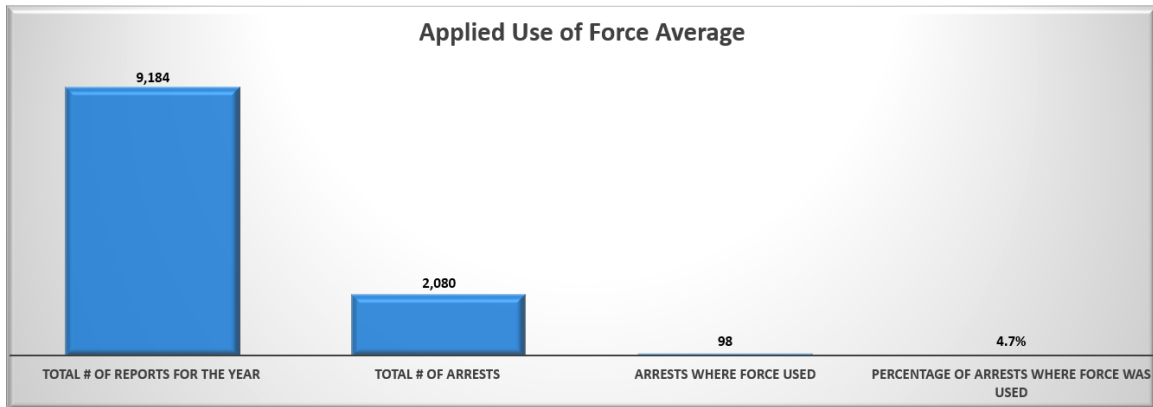
- Video Requests
 - Video requests are received for body worn camera, in-car, and surveillance videos
 - 135 requests for video were made in 2024.
 - 340 hours were spent filling the video requests.
 - It requires two people working full-time to review and make all the necessary redactions.
- Professional Standards
 - Complaints by Origin
 - 38 internal – the department started with the complaint
 - 23 external – complaint came from an outside source/individual
 - Complaints by Disposition



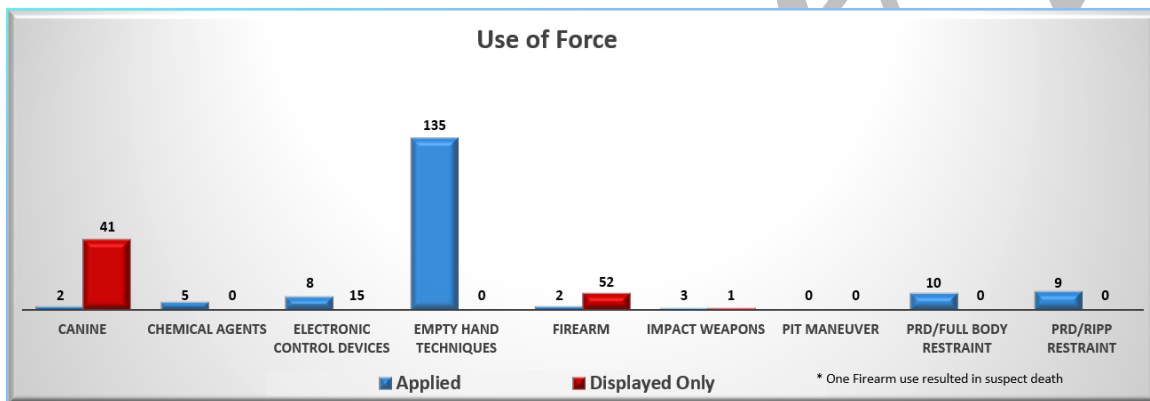
- Assaults on Officers
 - Serious injuries are down 60% from 2023
 - A serious injury is when an officer must be treated at the hospital.
 - The decrease is a result of training that teaches officers different tools and techniques to protect themselves from injury.



- Applied Use of Force
 - Less than 3% of arrests resulted in the use of force.



- Use of Force by Type
 - Most instances of use of force involved empty hand techniques, meaning that no tools such as batons, pepper spray, or tasers were used.



- 2024 Department Goals
 - Respected and Responsible
 - Ensure health and wellness of officers and professional staff
 - Addition of financial wellness program
 - Connected and Engaged
 - Continue hiring and recruitment through community engagement
 - A number of retirements are anticipated in the next four to five years, and the goal is to ensure there will be sufficient staffing at that time.
 - Increase community engagement throughout the police department
 - Organized and held two Citizens' Police Academies
 - Unique and Creative
 - Host a Teen Academy
 - Create Public Service Announcement videos with employees to keep our community informed and engaged

- Safe and Prosperous
 - Ensure contemporary and necessary officer training while protecting the community through creative Patrol scheduling.
 - Reduce crime
- Community Engagement
 - Citizens Police Academy
 - Citizen Advisory Committee
 - Teen Academy
 - Scary and Safe Halloween Event
 - Getting Arizona Involved In Neighborhoods (G.A.I.N.)
 - Law Enforcement Torch Run
 - Officers and professional staff attended over 100 events, interacting with the Yuma community
- Looking Forward
 - Officer and Professional Staff Health and Wellness
 - Develop Chaplain Program
 - Various applicants have been vetted
 - Collaboration with the Border Patrol Chaplain program to mentor the new chaplains, who will likely start after July 1st.
 - Emergency Dispatch Back-up Center (Agua Viva)
 - Will replace the existing small, one-room emergency dispatch back-up center at City Hall
 - Reduction in Crime
 - Co-Responder Mental Health Unit
 - Pairing officers with mental health professionals to respond to mental health-related calls
 - Expand the Drone Capabilities
 - Purchase of five additional drones has been requested in the budget
 - Real Time Crime Center
 - Re-establish Bike Patrol
 - Training
 - Enhance the training facilities
 - De-escalation and scenario-based training
 - Firearms range
 - Community Engagement
 - Facebook Live events

Discussion

- Officers volunteering at events are paid, but it is not part of their regular scheduled duty. Extensive continuous training for officers reinforces their academy skills and boosts their confidence, and is reflected in the crime statistics presented tonight. **(Mayor Nicholls/Garrity)**
- School Resource Officers (SROs) conduct regular lockdown drills, and the School Safety Program includes an app that allows teachers to alert dispatch and share their location during emergencies. All schools, including private and charter, have been offered this program. **(McClendon/Garrity)**

- While the Drug Abuse Resistance Education (DARE) program was discontinued, SROs still provide classes. Future opportunities for similar programs could be explored, potentially with the Yuma County Anti-Drug Coalition. **(McClendon/Garrity)**
- Training is conducted quarterly, covering various topics such as school violence, high-risk driving, and use of force, with a capstone training at the end of the year. All officers, regardless of experience, must participate in ongoing training. **(McClendon/Garrity)**
- Livescan is used to process arrestees by automatically running their fingerprints for identification. Although YPD has access to tools like the Integrated Automated Fingerprint Identification System, identification success can be hindered by factors such as the individual's lack of prior arrests or technical issues. **(McClendon/Garrity)**
- While hydraulic bollards are not be feasible in Yuma due to the heat, portable bollards can be used for block parties and other events. Additionally, a project to install a new bollard system in the downtown Main Street area is included in the Capital Improvement Program. **(Morales/Simonton/Garrity)**
- The Arizona Peace Officers Standards and Training Board sets police officer eligibility criteria in Arizona and has recently shortened the disqualification period for marijuana use from two years to six months, reflecting its legal status in the state. **(Morales/Garrity)**
- YPD is currently testing Artificial Intelligence tools from two vendors to help with police reports by pulling information from police body cameras, with the goal of evaluating time savings and cost-effectiveness. **(Morales/Garrity)**
- With the upcoming hires, there will be about five sworn officer vacancies remaining. Professional staff has a 6% vacancy rate, but the dispatch team is now fully staffed. **(Smith/Garrity)**
- In addition to the financial wellness aspect that was added to the Officer and Professional Staff Wellness Program, staff can now also take up to an hour a day for physical fitness, with access to trainers that can help them establish a workout program. **(Smith/Garrity)**
- YPD collaborates with Community Bridges, Inc. and Community Health Associates to have mental health professionals ride with officers to assist individuals in distress, providing immediate services and reducing repeat calls and confrontations. This initiative aims to offer humane support, especially for frequent users of mental health services and veterans, ensuring they receive necessary care and reducing the burden on officers. **(Smith/Garrity)**
- Human trafficking in Yuma involves both labor and sex trafficking, with efforts to combat it in cooperation with Homeland Security Investigations. Tips often come from community reports or directly from workers experiencing exploitation. **(Watts/Garrity)**
- Out of the 167 authorized positions, YPD currently has 149 officers, with 13 more starting soon and another 10 in the hiring process. Ongoing hiring is needed due to retirements and the time it takes to fully train new officers, with an aim of 200 officers to meet Yuma's needs as a growing community. **(Martinez/Garrity)**
- NIBRS categorizes crimes differently than Arizona Revised Statutes, such as classifying a vending machine break-in as larceny rather than burglary, and divides crimes into Group A, which are more serious crimes, and Group B, which are typically minor offenses. **(Martinez/Garrity)**

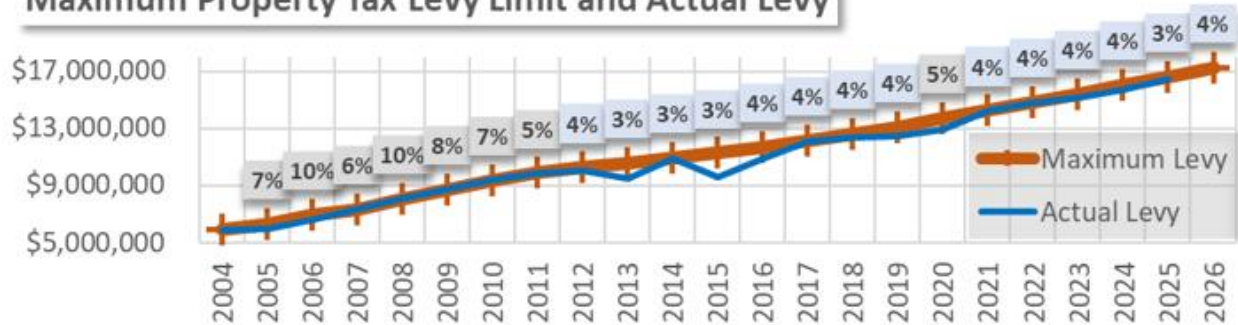
III. BUDGET DISCUSSION

Allen provided the following update on the proposed Fiscal Year (FY) 2026 Budget:

- Budget Calendar
 - June 18 – Final Budget Adoption

- The Final Budget consists of State Forms Schedules A-G from the Adopted Tentative Budget.
- The City Council will take action after the public hearing on the budget and property tax levies.
- Before final adoption, the City Council may make amendments among categories and/or lower levies, provided the total expenditure budget does not increase.
- The City Council will then be presented with the Final Budget resolution for adoption.
- June 18 – Property Levies
 - The property levy ordinance will be introduced after the public hearing and the adoption of the Final Budget resolution.
 - City Council can lower the posted levies before the introduction of the ordinance but cannot increase them.
 - The final levy ordinance will be scheduled for adoption on July 2nd at the Regular City Council Meeting.
 - The levy ordinance will be sent to Yuma County for final action by the third Monday in August.
- Requested Amendments
 - Tax Rates and Levies (Schedule B)
 - The Municipal Improvement District (MID) for Araby North currently has a relatively high tax rate of \$3.60. It was found that some right-of-way was turned over to the City, which the City now maintains. As a result, a request has been made to lower the tax rate to \$1.80.
 - The form used for MIDs is the same as the City tax rate form, so any adjustments to the City tax rate would also be part of Schedule B. For the previous two fiscal years, the tax rate was \$2.1321. For FY 2026 it has been posted at \$2.1450, the maximum allowed, giving the City Council flexibility to lower it if needed.
 - Personnel (Schedule G)
 - Request to decrease the number of full-time employees in the Equipment Maintenance Fund to 15. An error in the form mistakenly listed 17 instead of 15; this correction does not impact services or expenditures and aligns with the intent of the proposed budget.
- Property Taxes and Levies
 - Property Levy
 - The estimated property levy is \$17.3 million and constitutes 18% of the General Fund budget.
 - Half of the General Fund is allocated to public safety, which includes the Police Department, the Fire Department, and the Municipal Court.
 - Property Tax Levy Limit
 - The property tax levy limit represents the maximum amount that the City Council can impose. Historically, this limit has remained relatively consistent at around 4%, encompassing both the City Council-approved levy increase and new construction.

Maximum Property Tax Levy Limit and Actual Levy



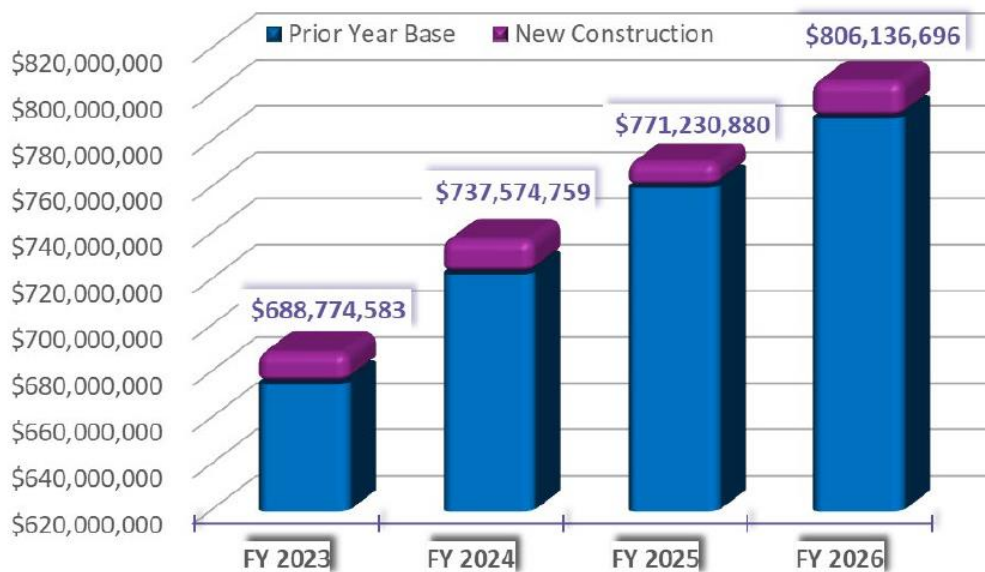
Property Tax Rates

Property Tax Rates



Assessed Valuations

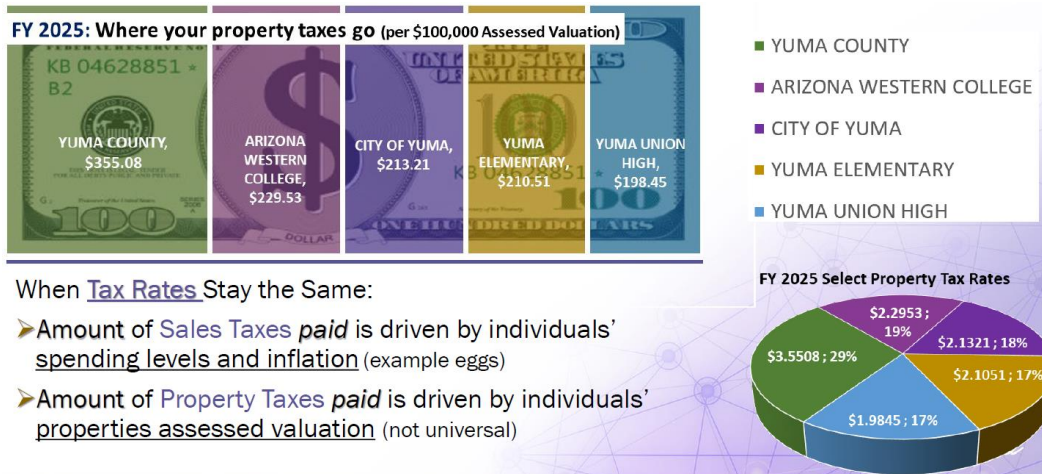
Primary Assessed Valuation - City of Yuma



- Property Tax Levy Scenarios
 - Same Levy (Lower Rate)
 - In this scenario, the City maintains the same levy of \$16.4 million. Based on the assessed valuation of the new base, this would reduce the rate from \$2.1321 to \$2.0829. Additionally, new construction would increase the total levy to \$16.8 million.
 - Same Rate (Higher Levy)
 - In this scenario, the City maintains the same tax rate of \$2.1321, which would result in a levy of approximately \$16.8 million. The addition of new construction would result in a total levy of \$17.2 million.
 - Maximum Levy
 - In this scenario, the City would increase the tax rate to the maximum allowed of \$2.145, which would result in a levy of \$16.9 million. Adding new construction would bring the total levy to \$17.3 million.
- Property Tax Levy and Truth in Taxation Rates
 - Last year's tax levy was \$16.4 million, with a rate of \$2.1321. Keeping the base levy the same at \$16.4 million and considering the assessed valuation increase, the rate would drop to \$2.08, avoiding the need for a Truth in Taxation notice.
 - Posting at the maximum, the levy amount would be \$16.9 million, resulting in a rate of \$2.145. Accordingly, the Truth in Taxation notice published in the newspaper shows a tax rate of \$2.1450, or \$214.50 per \$100,000 assessed valuation.

MAXIMUM LEVY AND TRUTH-IN-TAXATION OVERVIEW											
	FY 2024-25 (TY 2024)	Appreciation to Base	FY 2025-26 (Tax Year 2025)						Same Rate as Last Year		
			A) Stay at Same Base Levy (0% Increase)			B) Maximum Levy (3% Increase)			C) Stay at Same Rate (2.5% Increase)		
			Base	New Construction	Total	Base	New Construction	Total	Base	New Construction	Total
Proposed 2025-26 Tax Levy	-	-	\$ 16,443,413	\$ 347,819	\$ 16,791,232	\$ 16,933,443	\$ 358,189	\$ 17,291,632	\$ 16,831,815	\$ 16,831,815	\$ 33,663,631
Total Assessed Valuation	\$ 771,230,880	\$ 18,207,064	789,437,944	16,698,752	806,136,696	789,437,944	16,698,752	806,136,696	789,437,944	16,698,752	806,136,696
Taxed on per \$100	7,712,309		7,894,379	166,988	8,061,367	7,894,379	166,988	8,061,367	7,894,379	166,988	8,061,367
Percentage Increase			2.36%		4.53%	2.36%		4.53%	2.36%		4.53%
Primary Property Tax Rate	2.1321		2.0829	2.0829	2.0829	2.1450	2.1450	2.1450	2.1321	2.1321	2.1321
Primary Tax Levy	16,443,413		16,443,413	347,819	16,791,232	16,933,443	358,189	17,291,632	16,831,815	356,034	17,187,850
			\$ - difference due to rounding 0.00% need be same/lower OR do TNT			\$ 490,240 TNT required 2.98%			\$ 388,402 TNT required 2.36%		
TNT (Truth-in-Taxation)			Not to be Published			Required to Publish		Amount Under the Maximum (FY 2026 Max vs Same Base)		Required to Publish	
Proposed 2025-26 Primary Property Tax Levy per per \$100,000 Home Value			\$ 208.29			\$ 214.50		FY 2026 < 3% \$ 500,400 FY 2025 < 1% 158,102		\$ 213.21	
2025-26 Primary Property Tax Levy per \$100,000 Home Value if the Tax Rate was not adjusted in FY 2026			208.29			208.29		FY 2024 < 2% 314,944 FY 2023 < 2% 303,060		208.29	
Proposed 2024-25 Primary Property Tax Levy Increase(Decrease) per \$100,000 Home Value			-			6.2100		FY 2022=Max -		4.9200	
						</					

- Typical Tax Bill within the City of Yuma
 - The below infographic is an example of a typical tax bill based on the five major taxing authorities and does not include Municipal Improvement Districts or other special districts. Tax bills will also vary based on the school district in which a property is located.
 - Assessed valuation is not the same as market value but is the amount at which the Yuma County Assessor has valued a property.



- FY 2026 Budget Adoption Process
 - Preview of June 18th Special Budget Meeting
 - Public Hearing
 - Special Meeting
 - Conflicts of interest
 - Staff requested budget amendments
 - City Council amendments to the budget and Final Budget adoption by resolution
 - Additional Budget Related Items
 - City Council amendments to the Levy Rates and introduction of the levy ordinance

Discussion

- Including percentages in the typical tax bill infographic may make it more understandable, as people often think the City charges all the property tax. The infographic includes general tax for county operations, the library, library debt, and flood control, but not special irrigation districts. (**Mayor Nicholls/Allen**)
- If the property tax levy remains the same, no Truth in Taxation publication is needed, but any increase, even by \$1, requires publication. (**Mayor Nicholls**)

IV. REGULAR CITY COUNCIL MEETING AGENDA OF JUNE 18, 2025

Motion Consent Agenda Item C.2 – Bid Award: 40th Street and Avenue 7E Intersection (award a contract to DPE Construction, Inc., in the amount of \$2,388,750) (RFB-25-284) (Eng)

Mayor Nicholls declared a conflict of interest on Motion Consent Agenda Item C.2 as his firm designed the project, turned the meeting over to Deputy Mayor Smith, and left the dais.

Discussion

- Budget authority for this contract can be transferred from idle Capital Improvement Program projects and projects that have come in under budget, and potentially from a road tax contingency item. City Council will be emailed more specific funding information prior to tomorrow night's meeting. (**Morris/Wostenberg**)

Mayor Nicholls returned to the dais.

Resolution R2025-071 – Annual Public Safety Personnel Retirement System Funding Policy for Fiscal Year 2026 (as required under Arizona Revised Statutes § 38-863.01) (Fin)

Discussion

- The City is strategically managing its PSPRS unfunded liability by setting a goal of being fully funded by 2036. This allows flexibility in contributions while avoiding overfunding, since excess payments cannot be withdrawn. With reserves earning more in the Local Government Investment Pool than PSPRS's projected returns, the City is holding off on additional payments and awaiting updated actuarial valuations to guide future decisions. **(Morris/Allen)**
- The City reached 100% funding after issuing the pension obligation bonds in 2021, but subsequent market downturns and audit adjustments reduced that funded ratio to around 95%. However, when factoring in the City's dedicated reserve fund established at the time of the bond issuance, the combined assets still place the City effectively above 100% funded, offering flexibility to manage future rate impacts and payroll growth assumptions. **(McClendon/Allen)**
- The City's Tier 1 and Tier 2 PSPRS liabilities are scheduled to be fully amortized by 2036, after which all new members fall under a cost-sharing plan. Although the City will still need to fund retiree benefits beyond 2036, actuarial reports project sufficient assets for over 100 years – though those funds, once contributed, are permanently locked into the system. **(McClendon/Allen)**

Ordinance O2025-023 – Rezoning of Property: Southeast Corner of State Route SR-195 and 40th Street (rezone approximately 50.55 acres for the Agriculture (AG) District to the High Density Residential (R-3) District) (Plng & Nbhd Svcs)

Discussion

- The Arizona Department of Transportation requires a physical sound attenuation wall – likely 10 to 12 feet tall – to mitigate the impact of noise from the Area Service Highway on the future apartment complex. Trees will most likely not suffice as a barrier because they may be viewed as temporary; however, alternative sound attenuation methods can be explored. **(Morris/Wostenberg)**

V. EXECUTIVE SESSION/ADJOURNMENT

Motion (Morales/McClendon): To adjourn the meeting to Executive Session. Voice vote: **approved** 7-0. The meeting adjourned at 7:13 p.m.

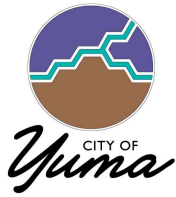
APPROVED:

Lynda L. Bushong, City Clerk

Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:

City Clerk: _____



City of Yuma

City Council Report

File #: MC 2025-104

Agenda Date: 7/16/2025

Agenda #: 1.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Finance	<input checked="" type="checkbox"/> Safe & Prosperous	<input checked="" type="checkbox"/> Motion
	<input type="checkbox"/> Active & Appealing	<input type="checkbox"/> Resolution
	<input type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
DIVISION:	<input type="checkbox"/> Connected & Engaged	<input type="checkbox"/> Ordinance - Adoption
Procurement	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Cooperative Purchasing Agreement: Electrical Energy Power Generation Equipment

SUMMARY RECOMMENDATION:

Authorize the use of a cooperative purchase agreement initiated by Sourcewell for the purchase of a Caterpillar XQ125 Portable Generator with a 10-year/5000 Hour Warranty through Empire Power Systems HQ, Phoenix, Arizona, at an expenditure of \$112,636.00 (Utilities-CPA-26-008) (Jeremy McCall/Robin R. Wilson)

STRATEGIC OUTCOME:

This item supports the City Council's strategic outcome of Safe and Prosperous by improving the emergency power systems at the Main Street Water Treatment Facility to operate during electrical power outages.

REPORT:

Sourcewell competitively bid a contract for Electrical Energy Power Generation Equipment. The Main Street Water Treatment Plant is not able to sustainably operate during power outages. This purchase is essential to providing electrical backup when any power outages occur to maintain uninterrupted power.

The use of this cooperative purchase contract with Sourcewell leverages volume purchasing and reduces administrative overhead costs by not having to conduct and manage a bid for a portable generator for the requested CIP project.

Approval of this cooperative purchase agreement will ensure the necessary equipment is purchased efficiently and effectively.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 112,636.00	BUDGETED:	\$ 200,000.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL	\$112,636.00	Water CIP	
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Sufficient budget capacity is provided in the FY 2026 City Council approved budget.

ADDITIONAL INFORMATION:

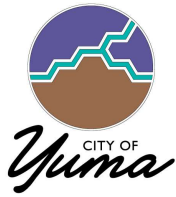
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

None

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- ☐ Department
- ☐ City Clerk's Office
- ☐ Document to be recorded
- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 07/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 07/03/2025



City of Yuma

City Council Report

File #: MC 2025-105

Agenda Date: 7/16/2025

Agenda #: 2.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Finance	<input checked="" type="checkbox"/> Safe & Prosperous	<input checked="" type="checkbox"/> Motion
	<input type="checkbox"/> Active & Appealing	<input type="checkbox"/> Resolution
DIVISION:	<input checked="" type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
Procurement	<input type="checkbox"/> Connected & Engaged	<input type="checkbox"/> Ordinance - Adoption
	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Cooperative Purchase Agreement: YRCS Dispatch Radio Equipment

SUMMARY RECOMMENDATION:

Authorize the purchase of dispatch radio equipment and services utilizing a Cooperative Purchase Agreement through the State of Arizona from Motorola Solutions, Inc. for a total amount of \$2,399,556.44. (IT/YRCS-GRT-26-006) (Jeremy W. Jeffcoat/Robin R. Wilson)

STRATEGIC OUTCOME:

The purchase of dispatch radio equipment and services for the regional radio system contributes to the City Council's strategic outcomes of Safe and Prosperous and Respected and Responsible by replacing aging and near end of manufacturer supported equipment with supported, interoperable equipment.

REPORT:

The Yuma Regional Communications System (YRCS) consists of member agencies throughout Yuma and La Paz counties that share a regional radio system. Dispatch radio consoles are critical components of the regional radio, that enables agencies to communicate efficiently and directly both internally and with regional partners. Most YRCS member agencies' dispatch radio consoles have been in use for approximately 15 years, with end of manufacturer support scheduled within five years. It is vital that all YRCS member agencies operate with minimum standards for equipment to realize the interoperability benefits of the regional radio system.

The YRCS has received grant funding from Arizona Department of Public Safety Local Border Support contract 2025-083 to replace dispatch radio consoles for YRCS member public safety agencies to continue coordinated border security public safety activities in the region.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 2,430,000.00
STATE FUNDS:	\$ 2,399,556.44	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL	\$ 2,399,556.44	YRCS Com Grants	
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Sufficient budget capacity is provided in the FY 2026 City Council approved budget for this purchase. Purchase of this equipment is 100% grant funded.

ADDITIONAL INFORMATION:

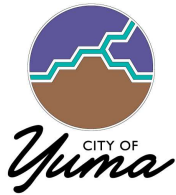
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- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 07/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 07/03/2025



City of Yuma

City Council Report

File #: MC 2025-107

Agenda Date: 7/16/2025

Agenda #: 3.

	STRATEGIC OUTCOMES	ACTION
DEPARTMENT: Police	<input type="checkbox"/> Safe & Prosperous	<input checked="" type="checkbox"/> Motion
	<input type="checkbox"/> Active & Appealing	<input type="checkbox"/> Resolution
DIVISION: Patrol	<input checked="" type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
	<input type="checkbox"/> Connected & Engaged	<input type="checkbox"/> Ordinance - Adoption
	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Transfer of Ownership: Police Canine

SUMMARY RECOMMENDATION:

Authorize the retirement and transfer of ownership of Yuma Police Department canine to the assigned handler. (Police/Patrol) (Thomas Garrity)

STRATEGIC OUTCOME:

This transfer of ownership is in accordance with the City Council's Respected and Responsible strategic outcome. The transfer allows the handler of the police canine to responsibly and safely assume legal ownership of the animal.

REPORT:

The City of Yuma Police Department (YPD) owns an eight-year-old male Belgian Malinois named Axel, who has served the Police Department since 2019. Axel is a certified dual-purpose Patrol Service Dog able to locate and apprehend persons and drugs. YPD recommends that Axel be retired due to his age, time in service, and his overall health. Due to the fact Axel is not a typical domestic canine, he should not be sold to or adopted by the general public.

Axel has lived with Officer Robinson and his family since being acquired by the department. Axel has established strong bonds with Officer Robinson and his family. Officer Robinson wishes to obtain ownership of Axel and has agreed to sign a waiver of liability and assume all expenses associated with the canine. Axel has been a loyal and faithful servant to the City of Yuma and should be allowed to maintain a high quality of life in retirement.

By approving this motion, the Mayor and Council authorize the sale and transfer of legal ownership of the City-owned canine to his respective handler, as outlined above.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL	\$ 0.00	-	
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

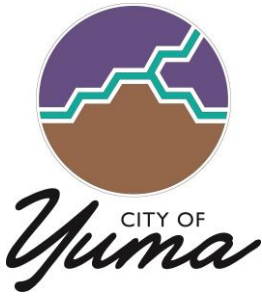
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- ☐ Department
☒ City Clerk's Office
☐ Document to be recorded
☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 07/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 07/03/2025



YUMA POLICE DEPARTMENT

1500 S. 1st Avenue
Yuma, AZ 85364
(928) 373-4652

Fax (928) 329-7962
TTY (928) 373-5149
www.YumaAZ.gov

TRANSFER OF K-9 OWNERSHIP

This is to acknowledge that I, Officer Michael Robinson, have this ____ day of _____ 2025, received from the City of Yuma, for the sum of one dollar (\$1.00), receipt of which is hereby acknowledged, one male Belgian Malinois police dog known as Axel, to include Axel's reward toys, leashes, collar (not including the electronic collar), food storage container, feeding and water bowl, grooming supplies, muzzle and crate kennels (plastic and wire).

Axel has been trained by me and has been under my supervision during his service with the City of Yuma Police Department.

I agree that, from this date forward, I will be responsible for all expenses related to Axel, including, but not limited to, food, maintenance, licensing, veterinary bills and any other expense related to ownership of Axel. I also agree to hold harmless and indemnify the City of Yuma, its City Council, officers and employees, agents and successors from and against all claims, injury, liability, loss, cost and expense (including all costs and reasonable attorney's fees in providing the defense to any claim or cause of action) or damage (however same may be caused or claimed to be caused) which arises from the actions of Axel after the above date.

The City warrants that it is the lawful owner of Axel, free from rightful claims of others and that it legally transfers ownership to Michael Robinson effective this date.

Dated: _____

Officer Michael Robinson

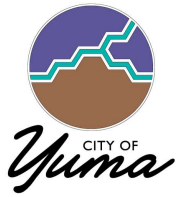
CITY OF YUMA

Dated: _____

Thomas Garrity
Chief of Police

Dated: _____

John D. Simonton
Acting City Administrator



City of Yuma

City Council Report

File #: R2025-076

Agenda Date: 7/16/2025

Agenda #: 1.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Police	<input checked="" type="checkbox"/> Safe & Prosperous	<input type="checkbox"/> Motion
	<input type="checkbox"/> Active & Appealing	<input checked="" type="checkbox"/> Resolution
	<input type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
DIVISION:	<input type="checkbox"/> Connected & Engaged	<input type="checkbox"/> Ordinance - Adoption
Patrol	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Intergovernmental Agreement: Crane Elementary School District No. 13

SUMMARY RECOMMENDATION:

Authorize the execution of a one-year Intergovernmental Agreement (IGA) with Crane Elementary School District No. 13 for School Resource Officer (SRO) services. (Police/Patrol) (Thomas Garrity)

STRATEGIC OUTCOME:

This IGA supports the City Council's strategic outcome of Safe and Prosperous, providing a uniformed officer presence on school campus, which enhances security and resources to deter and investigate criminal activity.

REPORT:

The City of Yuma Police Department provides policing services to Crane Elementary School District No. 13, which include classroom instruction, mentoring and coaching of students, enhanced security on campuses, criminal investigations and response to criminal activity.

The IGA requires that SROs be present on the Centennial Middle School campus, including at District events before and after school hours, such as meetings of the District Governing Board. The District approves funding under section 9 of the agreement.

This IGA is for a one-year term commencing July 31, 2025 - June 30, 2026.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 97,359.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL	\$ 97,359.00	-	
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Other Sources broken down: Salary - \$70,808.00 Employment Related Expenses (ERE) - \$26,551.00 for a combined total of \$97,359.00. The District reimburses the City for Officer Salary (10 months) and ERE/Benefits in four quarterly payments of \$24,339.75.

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

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- ☐ Department
- ☒ City Clerk's Office
- ☐ Document to be recorded
- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 07/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 07/03/2025

RESOLUTION NO. R2025-076

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING THE CITY OF YUMA TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH CRANE ELEMENTARY SCHOOL DISTRICT NO. 13

WHEREAS, the School Safety Program was established by A.R.S. § 15-154 in 1994 for the purpose of placing School Resource Officers (“SRO”) and Juvenile Probation Officers (“JPO”) on school grounds to contribute to safe school environments conducive to teaching and learning; and,

WHEREAS, the Crane Elementary School District (“District”) has obtained funding through a School Safety Program mini grant; and,

WHEREAS, through comprehensive prevention and intervention approaches, School Safety Program funded SROs maintain a visible presence on campus, deter delinquent and violent behaviors, serve as an available resource to the school community, and provide students and staff with law-related education, instruction, and training; and,

WHEREAS, SROs develop positive interactive relationships with the students, the staff, and the community that they serve. This proactive, prevention-based program is cultivated through collaborative working partnerships between SROs, school administration, teachers, police and juvenile probation departments; and,

WHEREAS, the District and the City are authorized by A.R.S. § 11-952 et seq., Article III, Section 13, of the Yuma City Charter, and A.R.S. § 15-342.13 to enter into agreements for the joint exercise of any power common to the contracting parties as to governmental functions necessary to the public health, safety and welfare, and the proprietary functions of such public agencies; and,

WHEREAS, the District and the City desire to work in cooperation with one another to further the goals of the approved School Safety Program and shall accept the roles and responsibilities as established in the School Safety Program guidelines; and,

WHEREAS, through this Agreement, the Yuma Police Department (“YPD”) will assign one SRO for successive 10-month periods to the District to perform the services listed in Section 4.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows:

SECTION 1: The City Council finds that entering into an intergovernmental agreement with Crane Elementary School District No. 13 for the purpose of placing an SRO on school grounds is in the public interest by promoting a safe and prosperous learning environment.

SECTION 2: On behalf of the City of Yuma, the City Administrator is authorized and directed to execute the intergovernmental agreement titled, *School Safety Program Grant between Crane Elementary School District No. 13 and the City of Yuma through the Yuma Police Department-July 31, 2025-June 30, 2026*, attached and incorporated into this Resolution by reference.

Adopted this _____ day of _____, 2025.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

APPROVED AS TO FORM:

Lynda L. Bushong
City Clerk

Richard W. Files
City Attorney

INTERGOVERNMENTAL AGREEMENT FOR SCHOOL SAFETY PROGRAM

This INTERGOVERNMENTAL AGREEMENT (“Agreement”) for a School Safety Program is entered into this 31th day of July, 2025, by and between the Crane Elementary School District No. 13 (“District”), on behalf of Centennial Middle School, and the City of Yuma (“City”), each of which is a public agency of the State of Arizona as that term is defined in Arizona Revised Statutes (“A.R.S.”) § 11-951. Each may be referred to independently as “party,” or collectively as the “parties.”

WHEREAS, the School Safety Program was established by A.R.S. § 15-154 in 1994 for the purpose of placing School Resource Officers (“SRO”) and Juvenile Probation Officers (“JPO”) on school grounds to contribute to safe school environments conducive to teaching and learning; and,

WHEREAS, the District has obtained funding through a School Safety Program mini grant; and,

WHEREAS, through comprehensive prevention and intervention approaches, School Safety Program funded SROs maintain a visible presence on campus, deter delinquent and violent behaviors, serve as an available resource to the school community, and provide students and staff with law-related education, instruction, and training; and,

WHEREAS, SROs develop positive interactive relationships with the students, the staff, and the community that they serve. This proactive, prevention-based program is cultivated through collaborative working partnerships between SROs, school administration, teachers, police and juvenile probation departments; and,

WHEREAS, the District and the City are authorized by A.R.S. § 11-952 et seq., Article III, Section 13, of the Yuma City Charter, and A.R.S. § 15-342.13 to enter into agreements for the joint exercise of any power common to the contracting parties as to governmental functions necessary to the public health, safety and welfare, and the proprietary functions of such public agencies; and,

WHEREAS, the District and the City desire to work in cooperation with one another to further the goals of the approved School Safety Program and shall accept the roles and responsibilities as established in the School Safety Program guidelines; and,

WHEREAS, through this Agreement, the Yuma Police Department (“YPD”) will assign one SRO for successive 10-month periods to the District to perform the services listed in Section 4.

NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the parties hereby agree as follows:

1. DURATION OF AGREEMENT

This Agreement shall be effective on the 31st day of July, 2025, if adopted by the governing boards of both parties, and shall terminate on the 30th day of June 2026, unless the Agreement is extended through mutual written agreement of the parties or otherwise terminated as set forth in this Agreement.

2. RECOMMENDED QUALIFICATIONS OF OFFICER (S)

The recommended qualifications for the SRO(s) selected for this position are as follows:

- a. Desire to work with students, parents, and educators.
- b. Willingness to teach law-related education.
- c. Supportive of and committed to prevention strategies.
- d. Satisfactory employment history with supporting documentation.
- e. Demonstrated effectiveness in working with youth.
- f. Oral and written communication skills.
- g. Ability to effectively interact and communicate with diverse set of individuals.
- h. Supportive of and committed to the philosophy of the School Safety Program.
- i. Willingness to attend law-related education basic and advanced training to implement and maintain Law-Related Education ("LRE") programs to meet the needs of the students.
- j. Member of a law enforcement agency.
- k. AZPOST certified general instructor.

The City will undertake in good faith to select the SRO(s) based on the qualifications above but may waive one or more qualifications in the best interest of the District and the City.

3. SELECTION PROCESS

The selection of the right officer is one of the most important aspects of making the School Safety Program successful. Therefore, the selection process should identify officers who are best suited to the work as SROs.

Involving the District administration in the selection process after the final candidates have been selected by YPD has the following benefits:

- a. The District administrator can identify the needs of the school.
- b. The District administrator can identify the type of personality that will work best in a specific school environment.
- c. The District administrator can provide insights into what is required to be effective in the school community.
- d. The District administrator can provide a critical understanding of the School Safety Program.

Notwithstanding anything to the contrary in this Agreement, YPD shall select the SRO, and may, but is not required to, involve the District in selecting the SRO. In all cases, YPD shall consider the best interests of the District in the selection of an SRO.

4. SERVICES TO BE PERFORMED

The District shall provide office space that provides privacy for the SRO(s) to conduct confidential business. The office shall include the necessary equipment for an SRO to effectively perform their duties, i.e., telephone, desk, chair, locked filing cabinet, up-to-date computer and printer.

SRO(s) support of the School Safety Program is vital to the success of the program. The SRO(s) is expected to spend eighty percent (80%) of their time on a District middle school site. SRO(s) must be present and accessible on Centennial Middle School campus for 40 hours per week.

Absent an emergency, the SRO(s) shall not be called away from Centennial Middle School or Centennial Middle School related events. If an SRO is called away for police business, excluding mandatory training, meetings, or crisis, the District shall not be invoiced for any time the SRO is away.

The SRO has three roles: (1) serve as a law enforcement officer and public safety specialist, (2) serve as a law-related educator, and (3) act as a positive role model. The duties of each role are set forth below.

A. LAW ENFORCEMENT OFFICER AND PUBLIC SAFETY SPECIALIST

1. The SRO's primary responsibility is to serve as a sworn law-enforcement officer. The SRO has the authority to intervene as a law-enforcement officer while at Centennial Middle School or related events. Once order is restored, the SRO's other roles as law-related educator and role model are the day to day roles.
2. Administrators are responsible for addressing school policy violations. The SRO shall only be involved when a student's conduct violates a law. The SRO(s) retain the authority to make arrests for clear violations of law, but will act as the secondary officer in the arrest process if possible.
3. As partners in school safety, the SRO(s) and District administrators shall work together to develop procedures for ongoing communication to ensure timely and uniform reporting of criminal activities.
4. The SRO serves as a member of the School Safety Assessment and Prevention Team.
5. The SRO utilizes expertise and agency resources for intervention and prevention of potential crime.
6. The SRO collaborates and communicates with school personnel on school-wide safety strategies (e.g. staff trainings, emergency response planning, needs assessment, and prevention planning).
7. The SRO builds relationships with students, parents, and staff that promote a positive image of law enforcement.

B. LAW-RELATED EDUCATOR

1. The SRO speaks to classes and assemblies regarding the law, law enforcement, and public safety upon invitation from District administrator or teaching staff.
2. The SRO takes a proactive approach and finds opportunities to educate students about laws and procedures related to law enforcement and the role of law enforcement in the community.
3. The SRO stays current on law enforcement-related topics and changes in the law to more effectively interact with and educate students.

C. POSITIVE ROLE MODEL

1. Set limits for acceptable and unacceptable conduct.
2. Educates students about the consequences of unacceptable behavior and the rewards of acceptable behavior.
3. Set an example by modeling how to handle stress, resolve conflicts, celebrate successes, and how to be a friend.
4. Be honest and provide accurate information.
5. Be consistent in applying rules and regulations with students, staff, and parents.
6. Encourage responsibility by helping students consider options and consequences of decisions, set personal goals, and develop plans to make desired changes.
7. Treat students with respect and express high expectations for them.
8. Always strive to be a positive role model knowing students learn from every observation of or interaction with the SRO.

5. SUMMER BREAK AND INTERSESSION

During the summer break described in the District's school calendar and during intersession the SRO(s) will return to the YPD for assignment. The SRO(s) will be on campus during summer school and summer school planning.

6. OFFICER ASSIGNMENT PERIODS:

The SRO(s) will be assigned to the District for a 10-month period. The SRO will be assigned to Centennial Middle School. The District administration will collaborate with all stakeholders to develop a schedule that is mutually acceptable to the school and the SRO.

7. OFFICER TRAINING

SROs new to the School Safety Program are required to attend new SRO training. All SROs are required to continue the development of their skills by annually attending advanced LRE workshops through the Arizona Foundation for Legal Services and Education. If such training is not available to the SROs, the District and the City will work to secure alternative SRO training and funding to attend the training.

8. PERFORMANCE EVALUATION

A performance evaluation shall be conducted each semester by a District administrator and shared with the SRO's supervisor. The evaluation is meant to assist the SRO and their supervisor in effectively carrying out the SRO's duties. It is not meant to supplant the official evaluation

process used by YPD or the City. It is at the discretion of YPD and the City to include the school's evaluation in the SRO's official folder. Only SROs that have performed in a satisfactory manner should be considered for further service in the School Safety Program.

The SRO's supervisor will consider the following factors when evaluating the SRO's effectiveness:

- a. Does the SRO have a clear sense of his/her role?
- b. Does the SRO understand the operational policies and procedures of the school necessary to perform effectively in the position?
- c. Has the SRO attended or scheduled to take a law-related education class in the current year?
- d. How does the SRO relate to staff, students, and parents?
- e. Does the SRO work well independently?
- f. Has the SRO attempted to meet the requirements of this Agreement?
- g. Does the SRO perform his/her duties effectively?
- h. How effective is the SRO with classroom presentations?

The District should conduct frequent informal evaluations that provide the SRO and their supervisor with feedback regarding the SRO's performance.

Any disagreement by or between the SRO and the school administration, should first be addressed between the SRO and District administration. If a resolution is not reached, the District and the Yuma Police Department shall attempt to resolve the problem in good faith as set forth in Section 19 of this Agreement.

9. FINANCE AND BUDGET

Upon the District receiving the approved funding for fiscal year 2025-2026, the District shall budget and pay the SRO(s) as follows:

A. District Payment to Y.P.D.

Salary (10 month)	\$ 70,808.00
ERE/Benefits	\$ 26,551.00
<hr/>	
Total	\$ 97,359.00

The District will pay up to the budgeted amount for the position as per the budget schedule set forth this Section.

B. Payment Terms

The District shall remit quarterly payments consisting of four payments of \$24,339.75 (for salary, and employee related expenses) to City of Yuma for a total of **\$97,359.00**.

Annual funding for this position will not increase during the term of this Agreement. Salary increases received by the SRO(s) during the term of this Agreement will be borne by the City.

10. FUND ACCOUNTING

Funds distributed to the City shall be handled and accounted for in accordance with the regular operating procedures established by the City. Any interest earned on these monies while in the possession of the City shall accrue to the City and may be used by the City for the Safe Schools Program. The District shall pay within thirty (30) days of receipt of the invoice from the City.

11. REPORTING AND RECORDS

All books, accounts, reports, files, and other records relating to this Agreement shall be kept for five (5) years after termination or expiration of this Agreement. The City shall maintain records and confidentiality relating to students in compliance with State and Federal law. The District acknowledges the City is subject to the public record laws of the State of Arizona.

12. MODIFICATION AND TERMINATION

A. Termination

This Agreement may be terminated by either party if in its judgment such action is necessary due to: (a) funding availability; (b) statutory changes in the program; (c) either party's failure to implement or operate the approved Safe Schools Program; or (d) either party's non-compliance with this Agreement. Any termination shall be in writing, stating the reason, and sent by certified mail. A termination is effective upon thirty (30) days' notice, as set forth in Section 22 of this Agreement, to the other party. Upon termination of this agreement, the parties shall return any property to its original owner.

B. Modification

Any modification to this Agreement shall be by mutual written consent signed by both parties.

13. EMPLOYMENT STATUS OF SRO(S)

Except as otherwise provided by law, in the performance of this Agreement and the School Safety Program, the parties are acting in their individual governmental capacities and not as agents, employees, partners, joint ventures, or associates of the other. The employees, agents, or subcontractors of one party shall not be deemed or construed to be the employees or agents of the other party.

YPD has sole authority over (1) assignment of the SRO(s), (2) determination of the SRO's hours, (3) discipline of the SRO(s), and (4) the implementation of policies and procedures in the handling of law enforcement matters.

Notwithstanding the above, in acknowledgement of the SRO's need to interact with students and to meaningfully participate in the educational and supervisory roles of an SRO, the District shall

designate each SRO as a “school official with a legitimate need” pursuant to the terms of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99). This designation shall allow the SRO to inspect any student records required by the SRO to carry out his/her duties. The SRO shall not secondarily disclose such student records to the Yuma Police Department, unless such disclosure: has the consent of the student’s parent/guardian; is necessary for a health and safety emergency; or is being disclosed by the law enforcement unit for a law enforcement purpose.

14. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties. There are no other representations or provisions.

15. INDEMNIFICATION

To the extent allowable by law, each party (the “Indemnitor”) agrees to indemnify, defend, and hold harmless the other party, and the other party’s departments, agencies, agents, officials, officers, directors, employees, and volunteers (collectively “Indemnatee”) for, from and against any and all claims, liabilities, demands, fines, judgments, damages, losses, and expenses, including attorneys’ fees and litigation expenses, to which Indemnatee may become subject, under any theory of liability whatsoever, (collectively “Claims”) whether real or asserted, resulting from and/or arising out of Indemnitor’s intentional, reckless, or negligent acts, directives, mistakes, errors, or omissions in performance or non-performance of any provisions of this Agreement, except to the extent such Claims arise out of or are based upon the acts, mistakes, errors, or omissions of Indemnatee. This indemnification provision shall apply to any and all any reckless, or negligent acts, mistakes, directions, errors, or omissions of Indemnitor’s departments, officers, employees, contractors, and independent contractors

16. SEVERABILITY

The parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the parties.

17. GOVERNING LAW

This Agreement shall be construed and interpreted solely in accordance with the laws of the State of Arizona and shall incorporate by reference all laws governing the intergovernmental agreements and mandatory contract provisions of state agencies required by statute or executive order. Any action to enforce any provision of this Agreement or to obtain any remedy with respect this Agreement shall be brought exclusively in the Superior Court, Yuma County, Arizona (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona or in the United States District Court for the District of Arizona, if, and only if, the Superior Court lacks jurisdiction over such action). The parties waive all provisions of law for a change of venue in such proceeding to any other county.

18. COMPLIANCE WITH NON-DISCRIMINATION LAWS

YPD and the District shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order 2023-01, amending Executive Orders 2003-22 and 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities. YPD and the District shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap, and the Americans with Disabilities Act.

19. DISPUTE RESOLUTION

If there is a dispute, the parties shall make a good faith effort to resolve the dispute without legal process. To the extent required by A.R.S. § 12-1518, the parties may submit any dispute to mediation or arbitration.

20. CONFLICT OF INTEREST

The parties acknowledge that this Agreement is subject to cancellation provisions pursuant to A.R.S. § 38-511, the provisions of which are incorporated and made a part of this Agreement by reference.

21. STUDENT CONFIDENTIALITY

Both parties will ensure that the dissemination and disposition of educational records complies at all times with the FERPA and any subsequent amendments.

22. COMPLIANCE WITH IMMIGRATION LAWS

The parties warrant, and represent to each other, that they are in compliance with A.R.S. §§ 41-4401 and 23-214, the Federal Immigration and Nationality Act (FINA), and all other immigration laws and regulations. Either party may request verification of compliance from the other party, contractors, or subcontractors performing work under the Agreement. A breach of this warranty shall be deemed a material breach subject to penalties up to and including termination of this Agreement. The parties agree to contractually obligate all contractors and subcontractors performing work under this Agreement to meet the requirements of this Section.

23. COMPLIANCE WITH FINGERPRINTING REQUIREMENTS

The parties shall comply with the fingerprinting requirements of A.R.S. § 15-512 unless otherwise exempted.

24. WORKER'S COMPENSATION

For purposes of workers' compensation, an employee of a party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another party, is deemed to be an employee of both the party who is his/her primary employer and the party under whose jurisdiction or control or within whose jurisdictional boundaries he/she is then working, as provided in A.R.S. §23-1022(D). The primary employer of such employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each party herein shall comply with the provisions of A.R.S. § 23-1022(E) by posting the notice

required.

“All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purpose of worker’s compensation.”

25. NOTICE AND REQUESTS

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given and received if:

- A. Personally delivered to the representatives at the addresses set forth below; or
- (i) B. Within ten (10) days of being deposited in the U.S. Mail, postage prepaid, certified, return receipt requested, to the addresses set forth below; or
- (ii) C. Prepaid and given to a recognized and reputable overnight delivery service, such as UPS or FedEx, for delivery.

If a copy of a notice is also given to a party’s counsel or other authorized recipient, the notice is deemed to have been received on the date on which the below representative received the notice, not the date its counsel or other authorized recipient received the notice.

City of Yuma
Attn: Chief of Police
One City Plaza
Yuma, AZ 85364

Crane Elementary School District No. 13
Attn: Superintendent
4250 W. 16th St
Yuma, AZ 85364

26. RIGHTS/OBLIGATIONS OF PARTIES ONLY

The terms of this Agreement are intended only to define the respective rights and obligations of the parties. Nothing expressed herein shall create any rights or duties in favor of any potential third-party beneficiary or other person, agency, or organization. Nothing expressed herein shall affect the legal liability of either party to this Agreement by imposing any standard of care different from the standard of care imposed by law.

27. NON-APPROPRIATION

Notwithstanding any other provision of this Agreement, this Agreement may be terminated if for any reason the District’s governing body does not appropriate sufficient monies for the purpose of maintaining this Agreement. A failure to appropriate sufficient monies will not, however, relieve the District of its statutory responsibilities under Arizona law.

28. NO JOINT VENTURE

This Agreement does not create any partnership, joint venture, or employment relationship between District and City employees. Neither party shall be held liable for any debts, accounts, obligations nor other liabilities whatsoever of the other, including, without limitation, the other party’s obligation to withhold social security and income taxes for itself or any of its employees.

29. COUNTERPARTS

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original as against the party signing such counterpart, but which together shall constitute one and the same instrument.

30. AUTOMATIC INCORPORATION

All applicable federal, state and local laws, court orders and decisions, Executive Orders, and administrative regulations not specifically referenced are deemed automatically incorporated.

31. NON-WAIVER

The failure of either party to insist upon strict performance of any terms of this Agreement or to exercise the rights or remedies allowed by this Agreement, or any delay in the exercise of any rights or remedies, shall not release any party from any of the responsibilities or obligations imposed by law or this Agreement, and shall not be deemed a waiver of any right of either party to insist upon strict performance.

32. NO BOYCOTT OF ISRAEL, FORCE LABOR OF ETHNIC UYGHURS

To the extent applicable under Ariz. Rev. Stat. §§ 35-393 through 35-393.03, each party certifies it is not currently engaged in and agrees that it will not engage in for the duration of this Agreement, a “boycott” of Israel, as that term is defined in Ariz. Rev. Stat. § 35-393. To the extent applicable under Ariz. Rev. Stat. § 35- 394, the parties warrant and certify that they do not currently, and agree that they will not, for the duration of this Agreement, use the forced labor, any goods or services produced by the forced labor, or any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

33. FORCE MAJEURE

Neither party will be liable for failure to perform its obligations under this Agreement for any reason beyond its control, including global or national pandemics, acts of God, natural disasters, strikes, or rule or regulation of any federal, state, or local government, or any agency thereof. The Parties shall take all reasonable measures necessary to resume service as quickly as possible.

34. AUTHORITY OF THE PARTIES

The persons executing this Contract on behalf of the parties hereby represent and guarantee that they have been authorized to do so, on behalf of themselves and the entity they represent. Further representation is made that due diligence has occurred, and that all necessary internal procedures and processes, including compliance with the open meeting law where necessary, have been satisfied to legally bind the entity to the terms of this Agreement.

[signatures on the following page]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date written below.

**District: Crane Elementary School
District No. 13**

City of Yuma

Dated: _____

Dated: _____

By: _____

Laurie Doering

Title: Superintendent

By: _____

Jay Simonton

Title: City Administrator

Agency: Yuma Police Department

Dated: _____

By: _____

Thomas Garrity

Title: Chief of Police

ATTEST:

Lynda L. Bushong, City Clerk

INTERGOVERNMENTAL AGREEMENT DETERMINATION

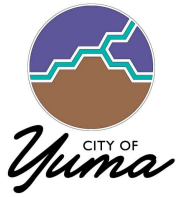
In accordance with A.R.S. § 11-952, this contract has been reviewed by the undersigned who have determined that this contract is in appropriate form and within the powers and authority granted to each respective public body.

Attorney for District

Attorney for City of Yuma

Udall Shumway, P.L.C

Richard W. Files



City of Yuma

City Council Report

File #: R2025-077

Agenda Date: 7/16/2025

Agenda #: 2.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Planning & Neighborhood Svc	<input checked="" type="checkbox"/> Safe & Prosperous	<input type="checkbox"/> Motion
	<input type="checkbox"/> Active & Appealing	<input checked="" type="checkbox"/> Resolution
	<input type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
DIVISION:	<input type="checkbox"/> Connected & Engaged	<input type="checkbox"/> Ordinance - Adoption
Community Planning	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Preannexation Development Agreement: Tangerine and Tonic, LLC

SUMMARY RECOMMENDATION:

Authorize a Preannexation Development Agreement for property located at the southwest corner of 40th Street and Avenue 4¼ E (APN 724-01-007). (Planning and Neighborhood Services/ Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:

The approval of this Preannexation Development Agreement will facilitate the development of the property furthering the City Council's strategic outcome of Safe and Prosperous.

REPORT:

Tangerine and Tonic, LLC owns the parcel located at the southwest corner of 40th Street and Avenue 4¼ E (APN 724-01-007) (Property). The owner has requested a Preannexation Development Agreement, allowing the ability to connect to City of Yuma services at a future date. The property is currently used for citrus farming, and at this time, there are no plans for new development.

In accordance with City policy, to receive City of Yuma services, annexation or a preannexation development agreement are required. Since annexation of the Property is not possible at the current time, a Preannexation Development Agreement will be executed, kept on file, and utilized at such time that a larger annexation can be brought forward.

The attached resolution authorizes a Preannexation Development Agreement with Tangerine and Tonic, LLC for the Property shown on the location map attached to the agreement.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL	\$ 0.00		
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Not applicable

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- ☒ Department
- ☐ City Clerk's Office
- ☐ Document to be recorded
- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 07/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 07/03/2025

RESOLUTION NO. R2025-077

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND APPROVING THE EXECUTION OF A PREANNEXATION DEVELOPMENT AGREEMENT WITH TANGERINE AND TONIC, LLC FOR ASSESSOR PARCEL NUMBER 724-01-007 LOCATED AT THE SOUTHWEST CORNER OF 40TH STREET AND AVENUE 4 ¼ E

WHEREAS, the City of Yuma (City) is authorized under Arizona Revised Statutes Section 9-500.05 to enter into development agreements with owners of real property situated in unincorporated lands; and,

WHEREAS, the owners of certain real property identified as APN 724-01-007 (the Property) desire to annex the Property into the municipal boundaries of the City, but the Property does not meet the statutory annexation requirements at this time; and,

WHEREAS, the City adopted its General Plan in 2022, and the use and development of the Property is consistent with the goals and objectives of the City of Yuma General Plan, as amended; and,

WHEREAS, the Property is located in unincorporated land that is territory desired by the City to be annexed into the boundaries of the City; and,

WHEREAS, the Property owners desire certain assurances and commitments from the City prior to and upon annexation of the Property into the City.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows:

SECTION 1: The Preannexation Development Agreement between Tangerine and Tonic, LLC and the City of Yuma, attached as Exhibit A and incorporated as part of this resolution by reference, is approved according to its terms.

SECTION 2: The City Administrator is authorized and directed to execute the attached Preannexation Development Agreement on behalf of the City of Yuma and to record the Preannexation Development Agreement in the Official Records of the Yuma County Recorder.

Adopted this _____ day of _____ 2025.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

**EXHIBIT A
RESOLUTION NO. R2025-077**

PREANNEXATION DEVELOPMENT AGREEMENT

This PREANNEXATION DEVELOPMENT AGREEMENT (“Agreement”), made and entered into pursuant to Arizona Revised Statutes (A.R.S.) § 9-500.05, is by and between Tangerine and Tonic, LLC (“Owner”), as the owner of the real property identified as APN 724-01-007, more particularly described and depicted in **Exhibit 1** attached and incorporated by reference (the “Property”), and the City of Yuma (“City”), an Arizona municipal corporation. Owner and City shall be referred to collectively as the “Parties” and individually as a “Party.”

RECITALS

WHEREAS, the City adopted its General Plan in 2022, and the use and development of the Property is consistent with and conforms to the goals and objectives of the City of Yuma General Plan, as amended; and,

WHEREAS, the Owners desire to annex the Property into the City limits and seeks certain assurances and commitments from the City following annexation; and,

WHEREAS, the Parties have entered into this Agreement to provide for the annexation and City of Yuma water service upon the terms and conditions described in this Agreement.

NOW THEREFORE, in consideration of the above recitals, the Parties agree as follows:

1. Development Agreement. This Agreement, together with all attached exhibits, is a Development Agreement within the meaning of Arizona Revised Statutes § 9-500.05. On the condition that all of the terms and covenants of this Agreement are complied with in a prompt and timely manner, this Agreement shall also constitute a contractual commitment of the City to furnish water service to the Property outside of the City’s municipal boundaries pursuant to *Yuma Valley Land Co., LLC. v City of Yuma*, 227 Ariz. 28 (2011).
2. Term. In consideration of the City’s commitment to furnish water service and, if sanitary sewer service should become available in the City’s normal course of construction, sanitary sewer service to any existing or future buildings on the Property, it is the intent of the Parties that this Agreement will commence and become operative on the date of its execution (the “Effective Date”), and terminate when the obligations of the Parties with respect to annexation are fully complied with, or the Parties mutually provide for termination in writing, whichever occurs first. Normal course of construction shall be interpreted to mean when such sanitary sewer service is available in the City’s absolute discretion and on the City’s schedule. In accordance with the Parties’ intent, the furnishing of water service shall begin on the Effective Date, either prior to or after annexation.
3. Annexation. Owner agrees to petition for and hereby consents to annexation of the Property into the City of Yuma pursuant to A.R.S. § 9-471. Owner’s agreement to annex shall operate as a covenant upon the Property, and upon recording this Preannexation Development Agreement, such covenant shall run with the land and with title to the Property until annexation is complete and no longer subject to referendum or appeal.

3.1. Owner and any subsequent owners of the Property agree that within ten (10) days of written request by an authorized representative of the City of Yuma, Owner or any subsequent owners or Owner’s successors will sign an annexation petition seeking to annex the entire Property into the City of Yuma

municipal boundaries. Upon receipt of the signed annexation petition, the City agrees to proceed with the annexation procedures established in the provisions of A.R.S. § 9-471 *et seq.* and, if determined to be in the best interest of the City, adopt the final ordinance annexing the property into the City of Yuma corporate limits.

3.2. Upon annexation of the Property, City staff will bring forward to City Council a request for rezoning the Property to a zoning district in the City's Zoning Code that is consistent with A.R.S. § 9-471 (L) which will permit densities and uses no greater than those permitted by Yuma County immediately before annexation.

4. Development Standards. The development and use of the Property shall be subject to all City, county, state and federal laws, regulations, rules, policies, and fees in effect at the time of development ("Applicable Laws").

5. City of Yuma Development Fees and Water and Sewer Capacity Charges. A material consideration for the Parties' willingness to enter into this Agreement is to make City utility service available to the Property on the same terms and conditions as any other development within the City. To accomplish this, beginning on the Effective Date, any development and use of the Property shall require the payment to the City of all City of Yuma Development Fees for any new construction (defined as any building construction commenced within two years prior to or any time after the Effective Date), including the streets facilities development fee, the police facilities development fee, the fire facilities development fee, the general government facilities development fee, water and sanitary sewer capacity and connection charges, water system development charges, sanitary sewer interceptor charge, any water or sewer payback amounts, and a payment to the City in lieu of tax ("PILOT") on any new construction that would otherwise have been due to the City if the building permit had been issued and the construction had occurred after annexation, equivalent to 1.7% of 65% of the total construction cost. Payment of all capacity, PILOT and development fees to the City under this Section 5 shall be made prior to City issuance of any water meter, connection to City water and/or sewer, or issuance of a City building permit. In order to calculate the PILOT, Owner shall require each contractor and subcontractor having taxable activities in connection with development of the Property furnish the City with a worksheet showing all gross income received by them for the construction. If Owner provides satisfactory documentation showing that the City tax on construction has already been paid, no payment in lieu of City taxes on construction shall be due. Until such time as annexation is complete, Owner and City acknowledge that Sanitation (solid waste), Emergency Medical Service, Police, and Emergency Fire Response to the Property shall be through a Yuma County provider, but that upon annexation, such services shall be provided by the City of Yuma in accordance with Applicable Laws. Upon Owner's execution of this Agreement, prior to or upon annexation of the Property, water service to the Property shall be available in accordance with Applicable Laws and the terms of this Agreement. Monthly water and any sanitary sewer service charges shall be paid in accordance with and governed by the City of Yuma Utility Regulations.

6. Additional Requirements. Prior to conveyance or transfer of any portion of the Property to a third party or the issuance of any water meter, fire service (water) connection, sewer connection, or any other permit for the Property, Owner shall record against title to the Property, utilizing the City's standard forms for such matters:

6.1 40th Street Right-of-Way Dedication. Owner shall dedicate to the City by delivery of a warranty deed, right-of-way along the Property's 40th Street frontage to meet the requirements of a Minor Arterial road.

6.2 Avigation and Range Disclosure, Easement and Waiver. As a covenant and condition to entering into this Agreement, before conveying or transferring any portion of the Property, Owner agrees to

disclose that the subject property is located in the vicinity of Yuma County International Airport and the U.S. Marine Corps Air Station, both of which may result in aircraft overflight, vibrations and related noise as may be inherent in the operation of aircraft now known or used for flying within navigable airspace. This disclosure obligation shall survive the termination of this agreement, shall run with the land, and shall be binding on all successors, assigns and future owners of the Property.

6.3 Encroachment and Right-of-Way Permits and Licenses Required. Owner acknowledges and agrees that any work performed in the public right-of-way, or the construction, installation or maintenance of any facility or other improvement in the public right-of-way requires a permit, license, franchise, or similar authorization issued by the controlling agency (the “Permitting Agency”) through the Permitting Agency’s normal and customary process for such issuance. Owner further acknowledges and agrees that City approval of any Site Plan or Plat over all or any portion of the Property does not constitute authorization for work or improvements in the public rights-of-way or any grant or waiver of any permitting requirements of the Permitting Agency. Owner shall meet all permitting requirements of the Permitting Agency, and shall obtain all necessary permits prior to commencing such work or improvements in the public rights-of-way.

7. Construction and Dedication of Improvements. Any public improvements required for development of the Property shall be designed, constructed, and dedicated in accordance with Applicable Laws, including, without limitation, City’s normal plan submittal, review and approval processes, day-to-day inspection requirements, insurance requirements, and financial assurance requirements. Owner’s construction and installation of public improvements shall occur within the timeframes specified under Applicable Laws.

8. Utility Services. The City acknowledges that the property is within the City of Yuma potable water service area, as approved by Yuma County. Upon application to the State of Arizona, Department of Environmental Quality, for a Notice of Intent, the City will issue the appropriate “Authorization to Connect to Public Water Service” letter for water service provided that Subsection 8.3 is complied with.

8.1 Assignment of Water Rights. Owner and any subsequent owners shall sign an application or otherwise fully cooperate with the City to convert, transfer, or assign any water or water delivery entitlements associated with the Property to the City.

8.2 Non-Potable Water. Nothing contained in this Agreement shall be construed as obligating Owner to accept City water services for any non-potable water demand on the Property, provided that such non-potable water demand is served by the appropriate irrigation district.

8.3 Septic System. If Owner has obtained permitting and installed a septic system pursuant to County of Yuma regulations the requirements of this Agreement shall not be interpreted to require the Property to connect to City sanitary sewer service until such time as Sanitary Sewer Service is available (at the City’s absolute and discretionary schedule) and the existing septic tank system is declared unserviceable as defined in City of Yuma Utility Regulations, as amended, or the Parties agree that such a connection shall be made. Any such connection to a future City of Yuma Sanitary Sewer Service line shall be at Owner’s sole cost for design, permitting, capacity charges and construction, and shall require City approval prior to permitting.

9. City and Owner Cooperation.

9.1 Cooperation in Development Approvals. Subject to the terms of this Agreement and compliance with Applicable Laws including without limitation City’s compliance with all required notice and public hearing requirements, City and Owner will cooperate reasonably in processing the approval or issuance of any permits, plans, specifications, plats or other development approvals requested by Owner in connection

with development of the Property. If developed in Yuma County, written City approval of all such permits, plans, specifications, plats or other development approvals shall be required.

9.2 Annexation requests. City agrees that City staff will support any annexation request by Owner for the Property that is consistent with this Agreement, the General Plan, and Applicable Laws.

10. Notice. Except as otherwise required by law, any notice, demand or other communication given under this Agreement shall be in writing and shall be given by personal delivery or be sent by certified or registered U.S. Mail, return receipt requested, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this paragraph, or by electronic mail, facsimile machine or by any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), with all postage and other delivery charges prepaid:

To City:
City Administrator
One City Plaza
Yuma, Arizona 85364-1436

To Owners:
Tangerine and Tonic, LLC
517 W. Apache Road
Flagstaff, AZ 86001

All such notices, demands or other communications will (i) if delivered personally or delivered through a same day delivery/courier service be deemed effective upon delivery or refusal to accept delivery by the addressee, and (ii) if delivered by U.S. mail in the manner described above be deemed effective upon the earlier of receipt or three (3) business days after deposit in a post office operated by the United States or with a United States postal officer (in each case regardless of whether such notice, demand or other communication is received by any other person to whom a copy of such notice, demand or other communication is to be delivered pursuant to this paragraph). Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any notice sent by email or facsimile machine shall be deemed effective upon confirmation of the successful transmission by the sender's electronic mail system or facsimile machine. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee.

11. Default. If either Party defaults (the "Defaulting Party") with respect to any of such Party's obligations, then the other Party (the "Non-Defaulting Party") shall give written notice in the manner described in Section 10 above to the Defaulting Party. The notice shall state the nature of the default claimed and make demand that such default be corrected. The Defaulting Party shall then have:

- a. twenty (20) days from the date of receipt of such notice within which to correct such default if it can be reasonably corrected by the payment of money, or
- b. sixty (60) days from the date of receipt of such notice to cure such default if action other than payment of money is reasonably required, or
- c. if any such non-monetary default cannot reasonably be cured within sixty (60) days for reasons beyond its control (financial inability, construction delays and market conditions excepted), then such longer period as may be reasonably required, provided and so long as such cure is promptly commenced within such period and diligently prosecuted to completion.

11.1 Remedies. If the default is not corrected within the time periods described in Section 11 above, the Non-Defaulting Party shall have all remedies available to it at law or in equity, subject to the limitations set forth herein. Owner or City, or any successor-in-interest or assignee, may institute a legal action to cure,

correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including but not limited to suits for declaratory relief, specific performance, relief in the nature of mandamus and actions for damages, provided that claims for damages shall be limited to actual damages as of the time of entry of judgment. The Parties hereby waive any right to seek consequential, punitive, multiple, exemplary or any damages other than actual damages.

11.2 Delays; Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any default by the other Party shall not be considered as a waiver of rights with respect to any other default by the Non-Defaulting Party or with respect to the particular default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the default involved.

11.3 Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of any one or more of such rights shall not preclude the exercise by it, at the same or different times, of any other right or remedy for any other default by the other Party.

12. Owner Representations. Owner represents and warrants that:

- a. Owner has the full right, power and authorization to enter into and perform this Agreement and the obligations and undertakings of Owner under this Agreement, and the execution, delivery and performance of this Agreement by Owner has been duly authorized, agreed to, and is in compliance with any organizational documents of Owner.
- b. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.
- c. Owner will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.
- d. As of the date of this Agreement, Owner knows of no litigation, proceeding or investigation pending or threatened against or affecting Owner, which could have a material adverse effect on Owner's performance under this Agreement that has not been disclosed in writing to City.
- e. This Agreement (and each undertaking of Owner contained herein) constitutes a valid, binding and enforceable obligation of Owner according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.
- f. The execution, delivery and performance of this Agreement by Owner is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which Owner is a party or to which owner is otherwise subject.
- g. Owner has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects.

h. Owner has had opportunity for independent legal review of this Agreement by counsel of its choosing prior to the execution hereof.

13. City Representations. City represents and warrants to Owner that:

a. City has the right, power and authorization to enter into and perform this Agreement and each of City's obligations and undertakings under this Agreement, and City's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the Yuma City Charter and the Yuma City Code.

b. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

c. City will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

d. City knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of City or its officials with respect to this Agreement that has not been disclosed in writing to Owner.

e. This Agreement (and each undertaking of City contained herein), constitutes a valid, binding and enforceable obligation of City, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditor's rights and by equitable principles, whether considered at law or in equity.

f. The execution, delivery and performance of this Agreement by City is not prohibited by, and does not conflict with, any other agreements, instruments or judgments or decrees to which City is a party or is otherwise subject.

g. City has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

14. Rights of Lenders. Financing or refinancing for acquisition, development and/or construction of the Property and/or improvements may be provided, in whole or in part, from time to time, by one or more Third Parties (individually a "Lender", and collectively the "Lenders"). If a Lender is permitted, under the terms of a non-disturbance agreement with City to cure the event of default and/or to assume Owner's position with respect to this Agreement, City agrees to recognize such rights of the Lender and to otherwise permit the Lender to assume all of the rights and obligations of Owner under this Agreement.

15. Successors and Assigns. All of the provisions of this Agreement shall inure to the benefit of and be binding upon the successors in interest and assigns of each of the Parties pursuant to A.R.S. § 9-500.05D and will run with the land during the Term of the Agreement as defined in Section 2.

16. Attorneys' Fees. In the event of commencement of a legal action in an appropriate forum by a Party to enforce any covenant or any of such Party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing Party in any such action shall be entitled to reimbursement of its reasonable attorneys' fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the Party and witnesses, costs of transcript preparation and other

reasonable and necessary direct and incidental costs of such dispute.

17. Miscellaneous.

17.1 Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Yuma (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona, or in the United States District Court for the District of Arizona at the John M. Roll United States Courthouse, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 17.1.

17.2 A.R.S. § 38-511. Notice is hereby given of the applicability of A.R.S. § 38-511.

17.3 Integration. This Agreement contains the entire agreement between the Parties, and no oral or written statements, promises, or inducements made by either Party, or its agents not contained or specifically referred to in this Agreement is valid or binding.

17.4 Recordation. Upon receipt of the recording fee from Owner, the City shall record a copy of this Agreement no later than ten (10) days from date of entering into this Agreement pursuant to A.R.S. § 9-500.05.

17.5 Estoppel Certificate. The Parties agree that, upon not less than twenty one (21) business days prior written request from a Party to this Agreement, a requested Party shall execute, acknowledge and deliver to the Party making such request a written statement certifying to the current status of the Agreement, including whether or not, the requested Party has actual knowledge that any Party is in default of any obligation or duty set forth in this Agreement. Any such certificate may be relied on by a prospective purchaser of any lot within the Property, or any prospective Lender.

17.6 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

17.7 Headings. The descriptive headings of the Sections of this Agreement are inserted for convenience only and shall not control or affect the meaning of construction of any of the provisions hereof.

17.8 Exhibits and Recitals. Any exhibit attached to this Agreement shall be deemed to have been incorporated into this Agreement by this reference with the same force and effect as if fully set forth in the body of the Agreement. The Recitals set forth at the beginning of this Agreement are acknowledged and incorporated and the Parties confirm the accuracy each Recital.

17.9 Further Acts. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (i) this Agreement as in full force and effect, and (ii) the performance of the obligations hereunder at any time.

17.10 Time is of the Essence. Time is of the essence in implementing the terms of this Agreement.

17.11 No Partnerships; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Parties. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person or entity not a Party hereto, and no such other person or entity shall have any right or cause of action under this Agreement, except for transferees or assignees to the extent that they assume or succeed to the rights and/or obligations of Owner under this Agreement or such rights and duties described as running with title to the land.

17.12 Amendment. No change or addition is to be made to this Agreement except by written amendment executed by City and Owner. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Yuma County, Arizona.

17.13 Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. If any applicable law or court of competent jurisdiction prohibits or excuses City or Owner from undertaking any contractual commitment to perform under any provision hereunder, the remaining portions of this Agreement shall remain in full force and effect, and the Parties will negotiate diligently in good faith for such amendments of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.

17.14 Business Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.

17.15 Individual Nonliability/Damages. No City Council member, official, representative, agent, attorney or employee shall be personally liable to any of the other Parties hereto, or to any successor in interest to such Parties, in the event of any default or breach by City or for any amount which may become due to a Party or its successor, or with respect to any obligation of City under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Owner shall be limited to the Property and any improvements thereon, and shall not extend to or be enforceable against the individual assets of any member, officer, or trustee of Owner.

17.16 Proposition 207 Waiver. Owner hereby waives and releases City from any and all claims under Arizona Revised Statutes § 12-1134, et seq., including any right to compensation for reduction to the fair market value of the Property or any portion thereof, as a result of City's approval or failure to approve this Agreement, the Annexation Ordinance, or adoption or failure to adopt the zoning designation, and all related annexation, zoning, land use, building and development matters arising from, relating to, or reasonably inferable from this Agreement, including the approval, rejection or imposition of conditions or stipulations upon the approval of the zoning designation. The terms of this waiver shall run with the land and shall be binding upon all subsequent landowners, assignees, lessees and other successors, and shall survive the expiration or earlier termination of this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their authorized representatives.

Dated this _____ day of _____, 2025.

CITY:
CITY OF YUMA

OWNER:
Tangerine and Tonic, LLC

By _____
John D. Simonton
Acting City Administrator

By _____
James M. Loven
Member

ATTEST:

By _____
Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

By _____
Richard W. Files
City Attorney

ACKNOWLEDGMENTS

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this _____ day of _____, 2025 by James M. Loven on behalf of Tangerine and Tonic, LLC.

NOTARY PUBLIC

COMMISSION EXPIRATION:

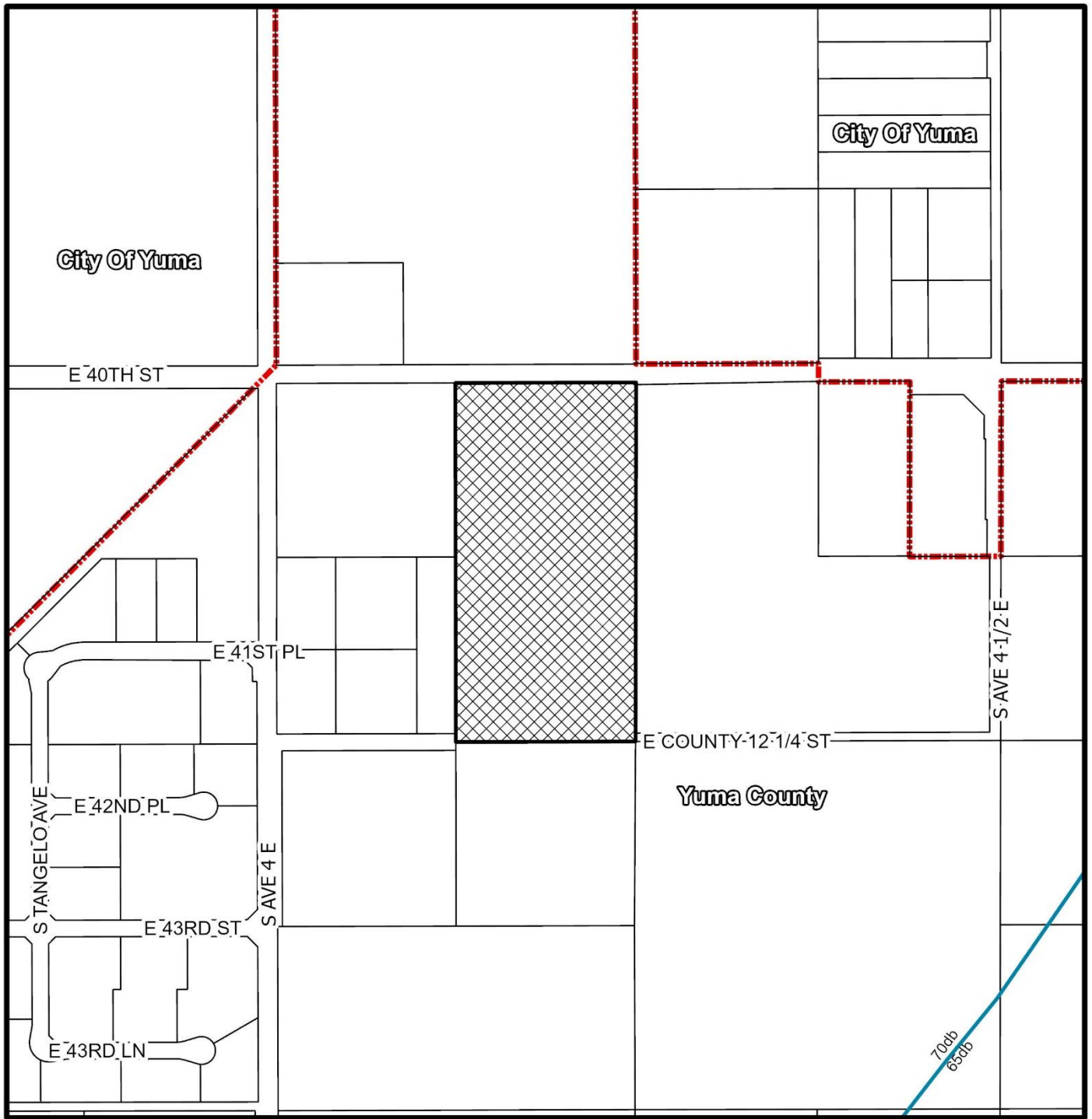
EXHIBIT 1

Legal Description of APN 724-01-007

A portion of land located in the Northwest Quarter of Section 18, Township 9 South, Range 22 West, of the Gila and Salt River Base and Meridian, Yuma County, State of Arizona, and being more particularly described as follows;

The East Half of Lot 1 of the Northwest Quarter of the Northwest Quarter of said Section 18.

Containing 882,961.2 Sq. Ft. or 20.27 acres more or less.



LOCATION MAP



LOCATION OF SUBJECT PROPERTY



Prepared by: DG

Checked by: EP



Community Planning and
Neighborhood Services GIS

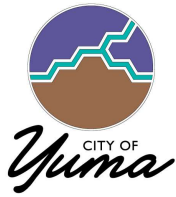
Date: 5/29/2025

Revised:

Revised:

Case #:

AGR-44153-2025



City of Yuma

City Council Report

File #: R2025-078

Agenda Date: 7/16/2025

Agenda #: 3.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Planning & Neighborhood Svc	<input checked="" type="checkbox"/> Safe & Prosperous	<input type="checkbox"/> Motion
	<input type="checkbox"/> Active & Appealing	<input checked="" type="checkbox"/> Resolution
	<input type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
DIVISION:	<input checked="" type="checkbox"/> Connected & Engaged	<input type="checkbox"/> Ordinance - Adoption
Community Planning	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Preannexation Development Agreement: 2150 RV Park, LLC

SUMMARY RECOMMENDATION:

Authorize a Preannexation Development Agreement for the property located at 2150 W. 16th Street. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:

The approval of the Preannexation Development Agreement will facilitate the connection of City services for the developed site. This furthers City Council's strategic outcomes of Safe and Prosperous and Connected and Engaged.

REPORT:

2150 RV Park, LLC (owner) owns the parcel located at 2150 W. 16th Street (APN 664-30-018) (Property). The property is developed as a mobile home park and their existing septic system is failing. The owner has requested a Preannexation Development Agreement to connect to City of Yuma sewer services.

In accordance with City policy, to receive City of Yuma services, annexation or a preannexation development agreement are required. Since annexation of the Property is not possible at the current time, a Preannexation Development Agreement will be executed, kept on file, and utilized at such time that a larger annexation can be brought forward.

The attached resolution authorizes a Preannexation Development Agreement with 2150 RV Park, LLC for the Property shown on the location map attached to the agreement.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL	\$ 0.00		
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Not applicable

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- ☐ Department
- ☒ City Clerk's Office
- ☐ Document to be recorded
- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 07/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 07/03/2025

RESOLUTION NO. R2025-078

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND APPROVING THE EXECUTION OF A PREANNEXATION DEVELOPMENT AGREEMENT WITH 2150 RV PARK, LLC, OWNER OF ASSESSOR PARCEL NUMBER 664-30-018 LOCATED AT 2150 W. 16TH STREET

WHEREAS, the City of Yuma (City) is authorized under Arizona Revised Statutes Section 9-500.05 to enter into development agreements with owners of real property situated in unincorporated lands; and,

WHEREAS, the owners of certain real property identified as APN 664-30-018 (the Property) desire to annex the Property into the municipal boundaries of the City, but the Property does not meet the statutory annexation requirements at this time; and,

WHEREAS, the City adopted its General Plan in 2022, and the use and development of the Property is consistent with the goals and objectives of the City of Yuma General Plan, as amended; and,

WHEREAS, the Property is located in unincorporated land that is territory desired by the City to be annexed into the boundaries of the City; and,

WHEREAS, the Property owners desire certain assurances and commitments from the City prior to and upon annexation of the Property into the City.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows:

SECTION 1: The Preannexation Development Agreement between 2150 RV Park, LLC and the City of Yuma, attached as Exhibit A and incorporated as part of this resolution by reference, is approved according to its terms.

SECTION 2: The City Administrator is authorized and directed to execute the attached Preannexation Development Agreement on behalf of the City of Yuma and to record the Preannexation Development Agreement in the Official Records of the Yuma County Recorder.

Adopted this _____ day of _____ 2025.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

**EXHIBIT A
RESOLUTION NO. R2025-078**

PREANNEXATION DEVELOPMENT AGREEMENT

This PREANNEXATION DEVELOPMENT AGREEMENT (“Agreement”), made and entered into pursuant to Arizona Revised Statutes (A.R.S.) § 9-500.05, is by and between 2150 RV Park, LLC (“Owner”), as the owner of the real property identified as APN 664-30-018, more particularly described and depicted in **Exhibit 1** attached and incorporated by reference (the “Property”), and the City of Yuma (“City”), an Arizona municipal corporation. Owner and City shall be referred to collectively as the “Parties” and individually as a “Party.”

RECITALS

WHEREAS, the City adopted its General Plan in 2022, and the use and development of the Property is consistent with and conforms to the goals and objectives of the City of Yuma General Plan, as amended; and,

WHEREAS, the Owner desires to annex the Property into the City limits and seeks certain assurances and commitments from the City following annexation; and,

WHEREAS, the Parties have entered into this Agreement to provide for the annexation and City of Yuma water service upon the terms and conditions described in this Agreement.

NOW THEREFORE, in consideration of the above recitals, the Parties agree as follows:

1. Development Agreement. This Agreement, together with all attached exhibits, is a Development Agreement within the meaning of Arizona Revised Statutes § 9-500.05. On the condition that all of the terms and covenants of this Agreement are complied with in a prompt and timely manner, this Agreement shall also constitute a contractual commitment of the City to furnish sanitary sewer service to the Property outside of the City’s municipal boundaries pursuant to *Yuma Valley Land Co., LLC. v City of Yuma*, 227 Ariz. 28 (2011).

2. Term. In consideration of the City’s commitment to furnish sanitary sewer service to any existing or future buildings on the Property, it is the intent of the Parties that this Agreement will commence and become operative on the date of its execution (the “Effective Date”), and terminate when the obligations of the Parties with respect to annexation are fully complied with, or the Parties mutually provide for termination in writing, whichever occurs first. In accordance with the Parties’ intent, the furnishing of water service shall begin on the Effective Date, either prior to or after annexation.

3. Annexation. Owner agrees to petition for and hereby consents to annexation of the Property into the City of Yuma pursuant to A.R.S. § 9-471. Owner’s agreement to annex shall operate as a covenant upon the Property, and upon recording this Preannexation Development Agreement, such covenant shall run with the land and with title to the Property until annexation is complete and no longer subject to referendum or appeal.

3.1. Owner and any subsequent owners of the Property agree that within ten (10) days of written request by an authorized representative of the City of Yuma, Owner or any subsequent owners or Owner’s successors will sign an annexation petition seeking to annex the entire Property into the City of Yuma municipal boundaries. Upon receipt of the signed annexation petition, the City agrees to proceed with the annexation procedures established in the provisions of A.R.S. § 9-471 *et seq.* and, if determined to be in the

best interest of the City, adopt the final ordinance annexing the property into the City of Yuma corporate limits.

3.2. Upon annexation of the Property, City staff will bring forward to City Council a request for rezoning the Property to a zoning district in the City's Zoning Code that is consistent with A.R.S. § 9-471 (L) which will permit densities and uses no greater than those permitted by Yuma County immediately before annexation.

4. Development Standards. The development and use of the Property shall be subject to all City, county, state and federal laws, regulations, rules, policies, and fees in effect at the time of development ("Applicable Laws").

5. City of Yuma Development Fees and Water and Sewer Capacity Charges. A material consideration for the Parties' willingness to enter into this Agreement is to make City utility service available to the Property on the same terms and conditions as any other development within the City. To accomplish this, beginning on the Effective Date, any development and use of the Property shall require the payment to the City of all City of Yuma Development Fees for any new construction (defined as any building construction commenced within two years prior to or any time after the Effective Date), including the streets facilities development fee, the police facilities development fee, the fire facilities development fee, the general government facilities development fee, water and sanitary sewer capacity and connection charges, water system development charges, sanitary sewer interceptor charge, any water or sewer payback amounts, and a payment to the City in lieu of tax ("PILOT") on any new construction that would otherwise have been due to the City if the building permit had been issued and the construction had occurred after annexation, equivalent to 1.7% of 65% of the total construction cost. Payment of all capacity, PILOT and development fees to the City under this Section 5 shall be made prior to City issuance of any water meter, connection to City water and/or sewer, or issuance of a City building permit. In order to calculate the PILOT, Owner shall require each contractor and subcontractor having taxable activities in connection with development of the Property furnish the City with a worksheet showing all gross income received by them for the construction. If Owner provides satisfactory documentation showing that the City tax on construction has already been paid, no payment in lieu of City taxes on construction shall be due. Until such time as annexation is complete, Owner and City acknowledge that Sanitation (solid waste), Emergency Medical Service, Police, and Emergency Fire Response to the Property shall be through a Yuma County provider, but that upon annexation, such services shall be provided by the City of Yuma in accordance with Applicable Laws. Upon Owner's execution of this Agreement, prior to or upon annexation of the Property, sanitary sewer service to the Property shall be available in accordance with Applicable Laws and the terms of this Agreement. Monthly water and any sanitary sewer service charges shall be paid in accordance with and governed by the City of Yuma Utility Regulations.

6. Additional Requirements. Prior to conveyance or transfer of any portion of the Property to a third party or the issuance of any water meter, fire service (water) connection, sewer connection, or any other permit for the Property, Owner shall record against title to the Property, utilizing the City's standard forms for such matters:

6.1 Aviation and Range Disclosure, Easement and Waiver. As a covenant and condition to entering into this Agreement, before conveying or transferring any portion of the Property, Owner agrees to disclose that the subject property is located in the vicinity of Yuma County International Airport and the U.S. Marine Corps Air Station, both of which may result in aircraft overflight, vibrations and related noise as may be inherent in the operation of aircraft now known or used for flying within navigable airspace. This disclosure obligation shall survive the termination of this agreement, shall run with the land, and shall be binding on all

successors, assigns and future owners of the Property.

6.2 Encroachment and Right-of-Way Permits and Licenses Required. Owner acknowledges and agrees that any work performed in the public right-of-way, or the construction, installation or maintenance of any facility or other improvement in the public right-of-way requires a permit, license, franchise, or similar authorization issued by the controlling agency (the “Permitting Agency”) through the Permitting Agency’s normal and customary process for such issuance. Owner further acknowledges and agrees that City approval of any Site Plan or Plat over all or any portion of the Property does not constitute authorization for work or improvements in the public rights-of-way or any grant or waiver of any permitting requirements of the Permitting Agency. Owner shall meet all permitting requirements of the Permitting Agency, and shall obtain all necessary permits prior to commencing such work or improvements in the public rights-of-way.

7. Construction and Dedication of Improvements. Any public improvements required for development of the Property shall be designed, constructed, and dedicated in accordance with Applicable Laws, including, without limitation, City’s normal plan submittal, review and approval processes, day-to-day inspection requirements, insurance requirements, and financial assurance requirements. Owner’s construction and installation of public improvements shall occur within the timeframes specified under Applicable Laws.

8. Utility Services. The City acknowledges that the property is within the City of Yuma potable water service area, as approved by Yuma County. Upon application to the State of Arizona, Department of Environmental Quality, for a Notice of Intent, the City will issue the appropriate “Authorization to Connect to Public Water Service” letter for water service provided that Subsection 8.3 is complied with.

8.1 Assignment of Water Rights. Owner and any subsequent owners shall sign an application or otherwise fully cooperate with the City to convert, transfer, or assign any water or water delivery entitlements associated with the Property to the City.

8.2 Non-Potable Water. Nothing contained in this Agreement shall be construed as obligating Owner to accept City water services for any non-potable water demand on the Property, provided that such non-potable water demand is served by the appropriate irrigation district.

9. City and Owner Cooperation.

9.1 Cooperation in Development Approvals. Subject to the terms of this Agreement and compliance with Applicable Laws including without limitation City’s compliance with all required notice and public hearing requirements, City and Owner will cooperate reasonably in processing the approval or issuance of any permits, plans, specifications, plats or other development approvals requested by Owner in connection with development of the Property. If developed in Yuma County, written City approval of all such permits, plans, specifications, plats or other development approvals shall be required.

9.2 Annexation requests. City agrees that City staff will support any annexation request by Owner for the Property that is consistent with this Agreement, the General Plan, and Applicable Laws.

10. Notice. Except as otherwise required by law, any notice, demand or other communication given under this Agreement shall be in writing and shall be given by personal delivery or be sent by certified or registered U.S. Mail, return receipt requested, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this paragraph, or by electronic mail, facsimile machine or by any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), with all postage and other delivery charges prepaid:

To City:
City Administrator
One City Plaza
Yuma, Arizona 85364-1436

To Owners:
2150 RV Park, LLC
1407 W. Camino Real
Yuma, AZ 85364

All such notices, demands or other communications will (i) if delivered personally or delivered through a same day delivery/courier service be deemed effective upon delivery or refusal to accept delivery by the addressee, and (ii) if delivered by U.S. mail in the manner described above be deemed effective upon the earlier of receipt or three (3) business days after deposit in a post office operated by the United States or with a United States postal officer (in each case regardless of whether such notice, demand or other communication is received by any other person to whom a copy of such notice, demand or other communication is to be delivered pursuant to this paragraph). Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any notice sent by email or facsimile machine shall be deemed effective upon confirmation of the successful transmission by the sender's electronic mail system or facsimile machine. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee.

11. Default. If either Party defaults (the “Defaulting Party”) with respect to any of such Party’s obligations, then the other Party (the “Non-Defaulting Party”) shall give written notice in the manner described in Section 10 above to the Defaulting Party. The notice shall state the nature of the default claimed and make demand that such default be corrected. The Defaulting Party shall then have:

- a. twenty (20) days from the date of receipt of such notice within which to correct such default if it can be reasonably corrected by the payment of money, or
- b. sixty (60) days from the date of receipt of such notice to cure such default if action other than payment of money is reasonably required, or
- c. if any such non-monetary default cannot reasonably be cured within sixty (60) days for reasons beyond its control (financial inability, construction delays and market conditions excepted), then such longer period as may be reasonably required, provided and so long as such cure is promptly commenced within such period and diligently prosecuted to completion.

11.1 Remedies. If the default is not corrected within the time periods described in Section 11 above, the Non-Defaulting Party shall have all remedies available to it at law or in equity, subject to the limitations set forth herein. Owner or City, or any successor-in-interest or assignee, may institute a legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including but not limited to suits for declaratory relief, specific performance, relief in the nature of mandamus and actions for damages, provided that claims for damages shall be limited to actual damages as of the time of entry of judgment. The Parties hereby waive any right to seek consequential, punitive, multiple, exemplary or any damages other than actual damages.

11.2 Delays; Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any default by the other Party shall not be considered as a waiver of rights with respect to any other default by the Non-Defaulting Party or with respect to the particular default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any

right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the default involved.

11.3 Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of any one or more of such rights shall not preclude the exercise by it, at the same or different times, of any other right or remedy for any other default by the other Party.

12. Owner Representations. Owner represents and warrants that:

- a. Owner has the full right, power and authorization to enter into and perform this Agreement and the obligations and undertakings of Owner under this Agreement, and the execution, delivery and performance of this Agreement by Owner has been duly authorized, agreed to, and is in compliance with any organizational documents of Owner.
- b. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.
- c. Owner will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.
- d. As of the date of this Agreement, Owner knows of no litigation, proceeding or investigation pending or threatened against or affecting Owner, which could have a material adverse effect on Owner's performance under this Agreement that has not been disclosed in writing to City.
- e. This Agreement (and each undertaking of Owner contained herein) constitutes a valid, binding and enforceable obligation of Owner according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.
- f. The execution, delivery and performance of this Agreement by Owner is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which Owner is a party or to which owner is otherwise subject.
- g. Owner has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects.
- h. Owner has had opportunity for independent legal review of this Agreement by counsel of its choosing prior to the execution hereof.

13. City Representations. City represents and warrants to Owner that:

- a. City has the right, power and authorization to enter into and perform this Agreement and each of City's obligations and undertakings under this Agreement, and City's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the Yuma City Charter and the Yuma City Code.
- b. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such

execution, delivery and performance.

c. City will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

d. City knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of City or its officials with respect to this Agreement that has not been disclosed in writing to Owner.

e. This Agreement (and each undertaking of City contained herein), constitutes a valid, binding and enforceable obligation of City, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditor's rights and by equitable principles, whether considered at law or in equity.

f. The execution, delivery and performance of this Agreement by City is not prohibited by, and does not conflict with, any other agreements, instruments or judgments or decrees to which City is a party or is otherwise subject.

g. City has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

14. Rights of Lenders. Financing or refinancing for acquisition, development and/or construction of the Property and/or improvements may be provided, in whole or in part, from time to time, by one or more Third Parties (individually a "Lender", and collectively the "Lenders"). If a Lender is permitted, under the terms of a non-disturbance agreement with City to cure the event of default and/or to assume Owner's position with respect to this Agreement, City agrees to recognize such rights of the Lender and to otherwise permit the Lender to assume all of the rights and obligations of Owner under this Agreement.

15. Successors and Assigns. All of the provisions of this Agreement shall inure to the benefit of and be binding upon the successors in interest and assigns of each of the Parties pursuant to A.R.S. § 9-500.05D and will run with the land during the Term of the Agreement as defined in Section 2.

16. Attorneys' Fees. In the event of commencement of a legal action in an appropriate forum by a Party to enforce any covenant or any of such Party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing Party in any such action shall be entitled to reimbursement of its reasonable attorneys' fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the Party and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

17. Miscellaneous.

17.1 Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Yuma (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona, or in the United States District Court for the District of Arizona at the John M. Roll United States Courthouse, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 17.1.

172 A.R.S. § 38-511. Notice is hereby given of the applicability of A.R.S. § 38-511.

173 Integration. This Agreement contains the entire agreement between the Parties, and no oral or written statements, promises, or inducements made by either Party, or its agents not contained or specifically referred to in this Agreement is valid or binding.

174 Recordation. Upon receipt of the recording fee from Owner, the City shall record a copy of this Agreement no later than ten (10) days from date of entering into this Agreement pursuant to A.R.S. § 9-500.05.

175 Estoppel Certificate. The Parties agree that, upon not less than twenty one (21) business days prior written request from a Party to this Agreement, a requested Party shall execute, acknowledge and deliver to the Party making such request a written statement certifying to the current status of the Agreement, including whether or not, the requested Party has actual knowledge that any Party is in default of any obligation or duty set forth in this Agreement. Any such certificate may be relied on by a prospective purchaser of any lot within the Property, or any prospective Lender.

176 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

177 Headings. The descriptive headings of the Sections of this Agreement are inserted for convenience only and shall not control or affect the meaning of construction of any of the provisions hereof.

178 Exhibits and Recitals. Any exhibit attached to this Agreement shall be deemed to have been incorporated into this Agreement by this reference with the same force and effect as if fully set forth in the body of the Agreement. The Recitals set forth at the beginning of this Agreement are acknowledged and incorporated and the Parties confirm the accuracy each Recital.

179 Further Acts. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (i) this Agreement as in full force and effect, and (ii) the performance of the obligations hereunder at any time.

17.10 Time is of the Essence. Time is of the essence in implementing the terms of this Agreement.

17.11 No Partnerships; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Parties. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person or entity not a Party hereto, and no such other person or entity shall have any right or cause of action under this Agreement, except for transferees or assignees to the extent that they assume or succeed to the rights and/or obligations of Owner under this Agreement or such rights and duties described as running with title to the land.

17.12 Amendment. No change or addition is to be made to this Agreement except by written amendment executed by City and Owner. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Yuma County, Arizona.

17.13 Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. If any applicable law or court of competent jurisdiction prohibits or excuses City or Owner from undertaking any contractual commitment to perform under any provision hereunder, the remaining portions of this Agreement shall remain in full force and effect, and the Parties will negotiate diligently in good faith for such amendments of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.

17.14 Business Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.

17.15 Individual Nonliability/Damages. No City Council member, official, representative, agent, attorney or employee shall be personally liable to any of the other Parties hereto, or to any successor in interest to such Parties, in the event of any default or breach by City or for any amount which may become due to a Party or its successor, or with respect to any obligation of City under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Owner shall be limited to the Property and any improvements thereon, and shall not extend to or be enforceable against the individual assets of any member, officer, or trustee of Owner.

17.16 Proposition 207 Waiver. Owner hereby waives and releases City from any and all claims under Arizona Revised Statutes § 12-1134, et seq., including any right to compensation for reduction to the fair market value of the Property or any portion thereof, as a result of City's approval or failure to approve this Agreement, the Annexation Ordinance, or adoption or failure to adopt the zoning designation, and all related annexation, zoning, land use, building and development matters arising from, relating to, or reasonably inferable from this Agreement, including the approval, rejection or imposition of conditions or stipulations upon the approval of the zoning designation. The terms of this waiver shall run with the land and shall be binding upon all subsequent landowners, assignees, lessees and other successors, and shall survive the expiration or earlier termination of this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their authorized representatives.

Dated this _____ day of _____, 2025.

CITY:
CITY OF YUMA

OWNER:
2150 RV Park, LLC

By _____
John D. Simonton
Acting City Administrator

By _____
Ruben D. Fontanes
Manager

By _____
Brian E. Hanson
Manager

By _____
Chandrasekhar Doniparthi
Manager

ATTEST:

By _____
Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

By _____
Richard W. Files
City Attorney

ACKNOWLEDGMENTS

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this _____ day of _____, 2025 by Ruben D. Fontanes on behalf of 2150 RV Park, LLC.

NOTARY PUBLIC

COMMISSION EXPIRATION:

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this _____ day of _____, 2025 by Brian E. Hanson on behalf of 2150 RV Park, LLC.

NOTARY PUBLIC

COMMISSION EXPIRATION:

ACKNOWLEDGMENTS

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025 by Chandrasekhar Doniparthi on behalf of 2150 RV Park, LLC.

COMMISSION EXPIRATION:

NOTARY PUBLIC

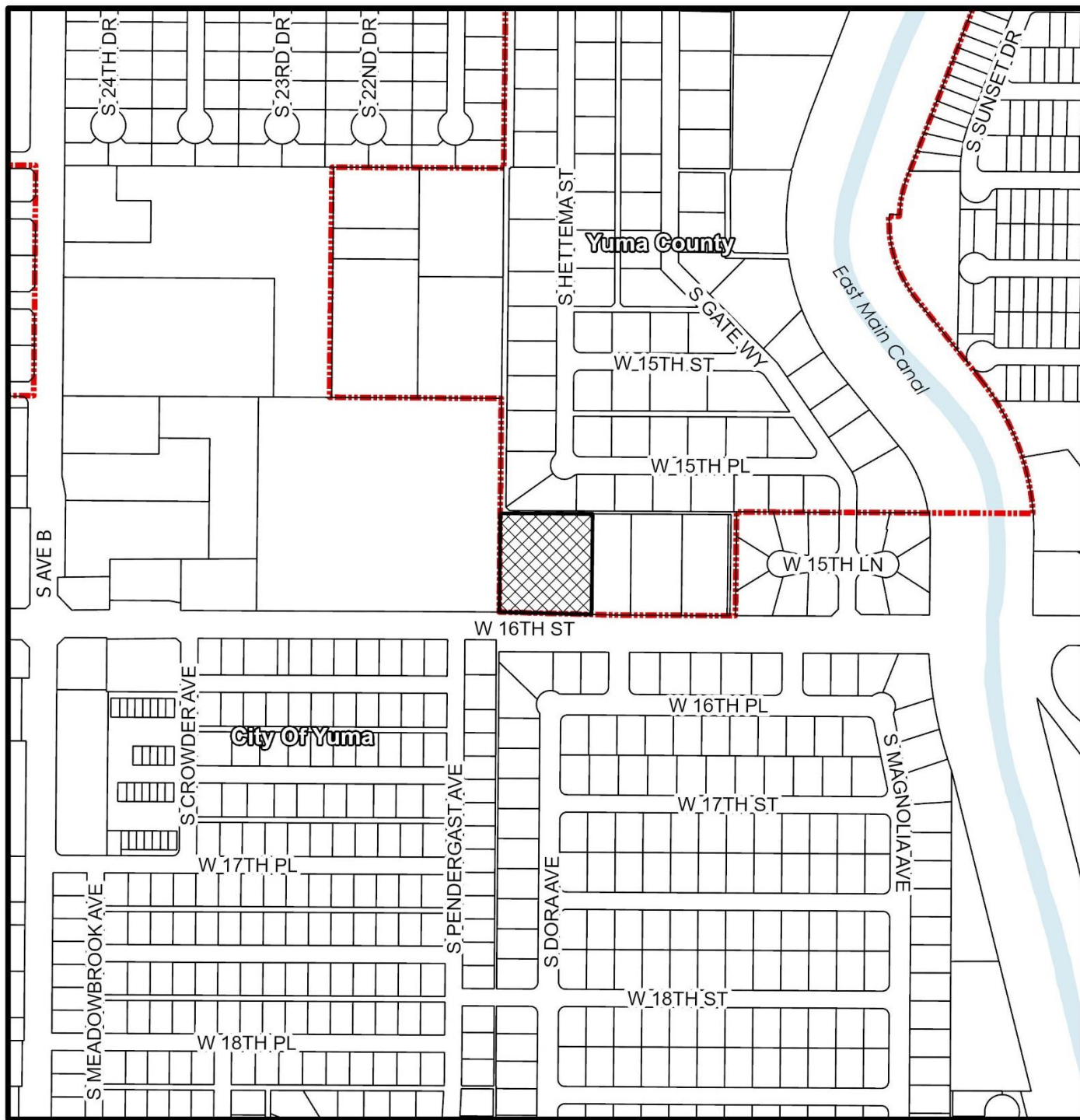
EXHIBIT 1

Legal Description of APN 664-30-018

A portion of land located in the Southwest Quarter of Section 29, Township 8 South, Range 23 West, of the Gila and Salt River Base and Meridian, Yuma County, State of Arizona, and being more particularly described as follows;

The West 266.00' feet of the South half of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of said Section 29. EXCEPT THEREFROM that portion described as follows; Beginning at the Southwest Corner of said Section 29; Thence North 89°50'35" East along the South line of said Section 29 a distance of 1312.82' feet to the Southwest Corner of said South half of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter also being the True Point of Beginning; Thence North 00°09'25" West along the West line thereof a distance of 47.00' feet to a point; Thence South 88°59'33" East a distance of 266.05' feet to the East line of the West 266.00' feet of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of said Section 29; Thence South 00°09'25" East along said East line a distance of 41.62' feet to a point on the South line of said Section 29; Thence South 89°50'35" West along the South line of said Section 29 a distance of 266.00' feet to the True Point of Beginning.

Containing 75,794.0 Sq. Ft. or 1.74 acres more or less.



LOCATION MAP



LOCATION OF SUBJECT PROPERTY



Prepared by: DG

Checked by: EP



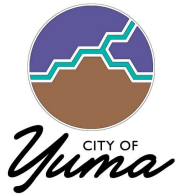
Date: 6/4/2025

Revised:

Revised:

Case #:

AGR-44183-2025



City of Yuma

City Council Report

File #: O2025-026

Agenda Date: 7/2/2025

Agenda #: 1.

	STRATEGIC OUTCOMES	ACTION
DEPARTMENT: City Attorney	<input type="checkbox"/> Safe & Prosperous <input checked="" type="checkbox"/> Active & Appealing <input type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Motion <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance - Introduction
DIVISION: Administration	<input type="checkbox"/> Connected & Engaged <input type="checkbox"/> Unique & Creative	<input checked="" type="checkbox"/> Ordinance - Adoption <input type="checkbox"/> Public Hearing

TITLE:

GPLET Lease: Spencrazi, L.L.C.

SUMMARY RECOMMENDATION:

Adopt an ordinance authorizing: (1) accepting title to land and improvements on Parcel B of the Center Pointe Commons Lot Tie/Lot Split at the southwest corner of 16th Street and 4th Avenue; (2) an eight-year government property land and improvements lease with Spencrazi, L.L.C., as the statutory prime lessee; (3) abatement of the government property lease excise tax for the term of the lease; and, (4) reconveyance of the land and improvements to the prime lessee at the conclusion of the lease. (This item must be adopted by a simple majority vote without the use of the consent calendar) (City Attorney) (Richard Files)

STRATEGIC OUTCOME:

Pursuant to a development agreement previously entered with the developer, Spencrazi, L.L.C., a Bubba's 33 sports bar and restaurant will open soon in Yuma, furthering the City Council's strategic outcome of Active and Appealing.

REPORT:

On December 21, 2022, the City Council adopted Ordinance No. O2022-054, authorizing a Real Property Sale, Option, and Development Agreement (Agreement) between the City and Hardknocks, LLP, which then assigned the Agreement to Spencrazi, L.L.C. (Developer). The Agreement described, among other things, a real property sale of vacant, surplus City property, a lot tie/lot split into two parcels, Parcel A and Parcel B of the Center Pointe Commons Lot Tie/Lot Split, the redevelopment of the Parcel A property, an option to purchase and redevelop Parcel B, and the potential for the Developer, as a statutory incentive, to enter into a government property land and improvements lease with an eight year excise tax abatement on both Parcel A and Parcel B. Provided the Developer improves the property by a value of at least 100% of pre-redevelopment and deeds the improved property to the City, the City as owner and landlord then leases either or both parcels to Developer as the prime lessee. At the conclusion of the eight-year lease, the City must reconvey the property back to the Developer.

This Ordinance concerns Parcel B and authorizes acceptance of title to Parcel B by the City and the Lease of Parcel B to the Prime Lessee, Spencrazi, L.L.C., who will then sublease the parcel to Bubba's Holdings LLC (Bubba's 33). During the term of the lease, the leased land and improvements is subject to the Government Property Lease Excise Tax (GPLET), which, because the redevelopment property is in a statutory central business district and statutory redevelopment area, qualifies for abatement of the GPLET.

Pursuant to statute, GPLET abatement requires that prior to entering into the Land and Improvements Lease, "the government lessor determines that, within the term of the lease or development agreement, the economic and fiscal benefit to this state and the county, city or town in which the government property improvement is located will exceed the benefits received by the prime lessee as a result of the development agreement or lease on the basis of an estimate of those benefits prepared by an independent third party in a manner and method acceptable to the governing body of the government lessor." A.R.S. § 42-6209C(2).

In a February 3, 2025, report prepared by Elliott D. Pollack & Company titled, *Economic and Fiscal Impact of the Proposed Bubba's 33, Yuma Arizona*, the estimated fiscal benefit based on the proposed redevelopment of Parcel B over a 10-year period will generate \$8.6 million in revenues. This amount includes \$4.0 million for the State of Arizona, \$1.2 million for Yuma County, over \$2.9 million for the City of Yuma and approximately \$410,780 for local school districts. This information is summarized on page 8 of the report. In addition, the redevelopment of Parcel B will create approximately 62 local direct-employment jobs with an average annual wage of approximately \$32,830. The property tax abatement is estimated at \$281,680 over eight years or approximately \$35,210 per year. Of this amount the City would give up approximately \$49,600 in property tax payments over the eight-year period or \$6,200 per year. A copy of the report is on file with the Yuma City Clerk and included as a supplement to this City Council Report (CCR).

The Spencrazi L.L.C. Parcel B Project is the Bubba's 33 Restaurant, expected to open in the fall of 2025. The letters attached to this CCR demonstrate that City Staff has provided the required notice of a GPLET lease to all local taxing districts. To date, no comments from any of the taxing entities concerning the GPLET abatement request have been received by City staff.

Also attached to this CCR is a copy of the proposed form of the Parcel B Land and Improvements Lease which shall remain on file with the Yuma City Clerk. The final form of the Land and Improvements Lease shall be substantially similar.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	

TOTAL \$ 0.00

.		
To total; right click number & choose "Update Field"		

FISCAL IMPACT STATEMENT:

Impacts are noted in the report.

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

☐ Department

- ☐ City Clerk's Office
- ☐ Document to be recorded
- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 06/26/2025
Reviewed by City Attorney: Richard W. Files	Date: 06/25/2025

ORDINANCE NO. O2025-026

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND APPROVING THE ACCEPTANCE OF TITLE TO CERTAIN REAL PROPERTY AND IMPROVEMENTS, THE EXECUTION OF A GOVERNMENT PROPERTY LAND AND IMPROVEMENTS LEASE FOR A TERM OF EIGHT YEARS WITH SPENCRAZI, L.L.C. AS THE PRIME LESSEE, THE RECONVEYANCE OF TITLE TO THE REAL PROPERTY AND IMPROVEMENTS AT THE CONCLUSION OF THE DESCRIBED LEASE, AND APPROVING THE ABATEMENT OF THE GOVERNMENT PROPERTY LEASE EXCISE TAX DURING THE TERM OF THE EIGHT YEAR LEASE

WHEREAS, pursuant to the Yuma City Charter, Article III, Section 2, the City of Yuma (City) is authorized to acquire, lease and dispose of real property; and,

WHEREAS, on January 23, 2023, the City and The Spencer Companies, d/b/a Hardknocks, LLLP, an Arizona limited liability limited partnership entered into a Real Property Sale, Option and Development Agreement (Agreement), approved by City Council Resolution R2022-054 and recorded as Yuma County Recorder's Fee #2023-01843; and,

WHEREAS, pursuant to the terms of the Agreement and that certain Memorandum of Assignment dated January 25, 2023, recorded as Yuma County Recorder's Fee #2023-01813, the Agreement was assigned by Hardknocks, LLLP to Spencrazi, L.L.C., an Arizona limited liability company; and,

WHEREAS, the Agreement describes the purchase of surplus City property for redevelopment at the southwest corner of 16th Street and 4th Avenue (Redevelopment Project), including conveyance of one or both of Parcel A and Parcel B of the Center Point Commons Lot Tie/Lot Split (recorded as Yuma County Recorder's Fee #2023-09941), back to the City and the establishment of an eight-year government property lease with abatement of the government property lease excise tax (GPLET) on either or both parcels; and,

WHEREAS, pursuant to Arizona Revised Statutes (A.R.S.) § 42-6209, the Yuma City Council by Resolution R2004-01 and Resolution No. R2013-04 has designated a single Central Business District of the City of Yuma, Arizona; and,

WHEREAS, pursuant to A.R.S. § 36-1471 *et seq.*, the Yuma City Council by Resolution No. R2012-03 has made a finding of necessity, declaring the Yuma North End-16th Street and 4th Avenue Redevelopment Area a slum or blighted area, and directing City staff to prepare a redevelopment plan for the area; and,

WHEREAS, pursuant to A.R.S. § 36-1474, the Yuma City Council adopted Resolution No. R2013-10 approving the Yuma North End-16th Street & 4th Avenue Redevelopment Plan of 2013 (Redevelopment Plan); and,

WHEREAS, on September 16, 2020, the Yuma City Council adopted Resolution R2020-034 renewing the Redevelopment Plans, Central Business District and Slum and Blighted determinations; and,

WHEREAS, the Parcel B Redevelopment Project (Bubba's 33) is located in the City's statutory redevelopment area and Central Business District and may qualify for favorable tax treatment, including abatement of the government property lease excise tax (GPLET) after deeding title to the property and improvements to the City of Yuma and entering into a government property land and improvements lease (lease) with the City as lessor and Spencrazi, L.L.C., as prime lessee; and,

WHEREAS, an analysis of the economic and fiscal benefits to the State of Arizona, Yuma County and the City of Yuma and the benefits to be received by Spencrazi, L.L.C. was prepared by Elliot D. Pollack & Company in a report titled, *Economic and Fiscal Impact of the Proposed Bubba's 33, Yuma, Arizona*, dated February 3, 2025, which shall remain on file with the City Clerk,

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: The City Council finds that in accordance with the report titled, *Economic and Fiscal Impact of the Proposed Bubba's 33, Yuma, Arizona*, dated February 3, 2025:

- a. The Parcel B Redevelopment Project will generate more than \$8.6 million in revenues during construction and operations over a ten-year period including approximately \$4.0 million for the State of Arizona; \$1.2 million for Yuma County; \$2.9 million for the City of Yuma and approximately \$410,780 for the school districts.
- b. The Parcel B Redevelopment Project will have an annual economic impact of approximately \$9 million (\$2 million in direct wages for 62 full and parttime jobs).
- c. Abatement of the government property lease excise tax on the Parcel B Redevelopment Project will total approximately \$281,680 (\$49,600 abatement of City property taxes) over the eight-year term of the proposed lease.

SECTION 2: The City Council finds that the report titled, *Economic and Fiscal Impact of the Proposed Bubba's 33, Yuma, Arizona*, was prepared using methods and in a manner acceptable to the City Council, and that the economic and fiscal benefit to the State of Arizona, Yuma County and the City of Yuma will exceed the benefits to Sixteen & Four, LLC, as prime lessee under the proposed *Spencrazi, L.L.C., Parcel B, Land and Improvements Lease*.

SECTION 3: The City Council further finds that in accordance with a letter dated May 13, 2025 (on file with the City Clerk), each of the appropriate taxing entities was notified at least 60 days prior to the adoption of this Ordinance, of the City's intent to enter into the described government property land and improvements lease together with a copy of the *Economic and Fiscal Impact of the Proposed Bubba's 33, Yuma, Arizona*, dated February 3, 2025, as required by statute.

SECTION 4: The City of Yuma shall accept title to the Parcel B, Center Point Commons Lot Tie/Lot Split (the Parcel B Redevelopment Project land and improvements at the southwest corner of 16th Street and 4th Avenue), and to lease the property and improvements to Spencrazi, L.L.C., as prime lessee for a term of eight years in accordance with the terms described in the *Spencrazi, L.L.C., Parcel B, Land and Improvements Lease* on file with the Yuma City Clerk and incorporated by reference.

SECTION 5: The City Administrator is authorized to execute the *Spencrazi, L.L.C., Parcel B, Land and Improvements Lease* in substantially the same form attached to the City Council Report accompanying this Ordinance and made a part of this Ordinance by reference, on behalf of the City.

SECTION 6: Abatement of the government property lease excise tax (GPLET) for the Parcel B Redevelopment Project is approved for the term of the lease.

SECTION 7: Title to the described land and improvements shall be re-conveyed by the City to the prime lessee at the termination or conclusion of the land and improvements lease.

Adopted this _____ day of _____, 2025.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

SPENCRAZI, L.L.C.
PARCEL B LAND AND IMPROVEMENTS LEASE

between

CITY OF YUMA, ARIZONA,
an Arizona municipal corporation,

and

SPENCRAZI, L.L.C.,
an Arizona limited liability company

_____, 202__

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EXHIBITS

- A. Legal Description of Land**
- B. Insurance Requirements**
- C. Memorandum of Lease**
- D. Form of Deed**

SPENCRAZI, L.L.C.
PARCEL B LAND AND IMPROVEMENTS LEASE

THIS SPENCRAZI, L.L.C. PARCEL B LAND AND IMPROVEMENTS LEASE (“**Lease**”) is made and entered into as of the ____ day of _____, 202__ (“**Execution Date**”) by and between the CITY OF YUMA, an Arizona municipal corporation (“**Landlord**” or “**City**”), and SPENCRAZI, L.L.C., an Arizona limited liability company, (“**Tenant**”). The Landlord and Tenant are sometimes referred to herein collectively as the “**Parties**” or individually as a “**Party**”.

RECITALS

- A. The City of Yuma and The Spencer Companies, d/b/a Hardknocks, LLLP, an Arizona limited liability limited partnership (“**Hardknocks**”), previously entered into that certain Real Property Sale, Option, and Development Agreement dated January 23, 2023, and recorded as Document No. 2023-01843 in the Official Records of the Yuma County, Arizona at (the “**Development Agreement**”). Hardknocks assigned its rights under the Development Agreement to Tenant pursuant to that certain Memorandum of Assignment dated January 25, 2023, and recorded as Document No. 2023-01813 in the Official Records of Yuma County, Arizona. The Development Agreement, in part, authorizes the Parties to enter into this Lease. Capitalized terms in this Lease which are not defined herein shall have the same meanings as set forth in the Development Agreement; capitalized terms in this Lease which are defined herein shall prevail over any conflicting definitions in the Development Agreement.
- B. Tenant previously held fee title to the land described in **Exhibit A** hereto (the “**Land**”) and entered into that certain Ground Lease Agreement with Bubba’s Holdings LLC, a Kentucky limited liability company (“**Bubba’s Holdings**”), as successor-in-interest to Texas Roadhouse, Inc., a Delaware corporation, dated April 8, 2024, as amended by the First Amendment to Lease Agreement dated September 23, 2024 and the Second Amendment to Lease Agreement dated February 10, 2025, and as evidenced by that certain Memorandum of Lease dated March 3, 2025 and recorded in the official records of Yuma County, Arizona as Document No. 2025-07425 (collectively, the “**Ground Lease**”).
- C. The Ground Lease requires Bubba’s Holdings to construct a building and other improvements, along with fixtures, furnishings and equipment therein consistent with the Development Agreement (the “**Improvements**”) which, together with the Land and all rights and privileges appurtenant thereto and all future additions thereto or alterations and replacements thereof, are collectively referred to herein as the “**Premises**”).
- D. Tenant has conveyed the Premises to the Landlord by special warranty deed (but reserving unto Tenant all right, title, interest in and to the Ground Lease), and Landlord has agreed to lease the Premises to the Tenant pursuant to this Lease and consents to the Ground Lease, which shall henceforth be converted to a sublease between Tenant, as Sublessor, and Bubba’s Holdings, as Sublessee. For purposes of this Lease, however, such sublease shall continue to be referred to as “Ground Lease” for convenience.

- E. The Premises are located in a single central business district in a redevelopment area established pursuant to Title 36, Chapter 12, Article 3, of the Arizona Revised Statutes (“**A.R.S.**”). The construction of the Improvements will result in an increase in the property value of the Premises of at least one hundred percent (100%).
- F. Pursuant to A.R.S. § 42-6206, notice is hereby given that the Premises will be subject to the government property lease excise tax under A.R.S. § 42-6201 through § 42-6210 (the “**GPLET**”). Landlord has or will abate the GPLET for the period beginning upon the issuance of the certificate of occupancy on those Improvements defined by A.R.S. § 42-6201 as a government property improvement and ending eight (8) years thereafter, as provided in A.R.S. §42-6210. But for the abatement, Tenant would not have agreed to cause the Improvements to be constructed.

AGREEMENT

IN CONSIDERATION of the mutual promises and covenants contained herein, and of other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

ARTICLE 1 LEASE OF PREMISES

1.1 Lease. In consideration of the covenants of Tenant contained in this Lease, Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, effective as of the Commencement Date set forth in Section 2.1, in an “**AS IS**” “**WHERE IS**” condition and subject to: (a) current taxes and assessments, reservations in patents, all rights-of-way, easements, liens, encumbrances, covenants, conditions, restrictions, obligations, and liabilities of record as of the date hereof; (b) Bubba’s Holdings rights under the Ground Lease and the Leasehold Mortgage; (c) all matters which a current accurate survey or physical inspection of the Premises would disclose; and (d) all federal, state, county and local laws (statutory and common law) ordinances, rules, regulations, permit requirements, development fees (in accordance with A.R.S. § 9-463.05), and other requirements and official policies of the City, now or hereafter in effect, provided any such new laws (statutory and common law) ordinances, rules, regulations, permit requirements, development fees (in accordance with A.R.S. § 9-463.05), and other requirements and official policies shall be of general applicability (“**Applicable Laws**”).

1.2 Premises. The Premises are described in Recital C above.

1.3 Tenant’s Inspection of the Premises. Tenant has inspected and investigated the Premises to Tenant’s complete satisfaction, observed its physical characteristics and existing conditions, the operations thereon and on adjacent areas, and Tenant hereby waives any and all objections to, complaints about, or claims regarding the Premises and its physical characteristics and existing conditions, including, without limitation, subsurface soil and water conditions and solid and hazardous waste and any Hazardous Substance on, under or adjacent to the Premises. Tenant further hereby assumes the risk of changes in Applicable Laws and regulations relating to past, present and future environmental conditions on the Premises and the risk that adverse

physical characteristics and conditions, including, without limitation, the presence of any Hazardous Substance or other contaminants that may not have been revealed by its investigation. Landlord is hereby released from all responsibility and liability regarding the operation, condition (including the presence in the soil, air, structures, and surface and subsurface waters, of materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Premises under current or future federal, state and local laws and regulations), valuation or utility of the Premises, or its suitability for any purpose whatsoever. Tenant expressly acknowledges that Tenant has not relied on any warranties, promises, understandings or representations, express or implied, oral or written, of Landlord or of any agent of Landlord, relating to the Premises, except as specifically set forth in this Lease.

1.4 Quiet Enjoyment. Landlord covenants that so long as Tenant shall perform the obligations of Tenant contained in this Lease and shall not be in default in the performance of any of such obligations, Landlord shall not take any action, or fail to take any action, that would deny Tenant and its subtenants, licensees, successors and assigns the right to freely, peaceably, and quietly have, hold and enjoy full and exclusive use and enjoyment of the Premises.

ARTICLE 2 TERM

2.1 Commencement Date and Term. The term of this Lease (the “**Term**” or “**Lease Term**”) shall be for a period of eight (8) years, commencing on the later to occur of the date on which, (i) the Certificate of Occupancy for those Improvements referenced in Recital F above was issued by the City; and (ii) fee title to the Premises is conveyed from Spencrazi, L.L.C., to the City (the “**Commencement Date**”), and ending at midnight on the eighth (8th) anniversary of the Commencement Date, subject to the terms and conditions set forth in this Lease which may permit or provide for an earlier termination. However, and notwithstanding anything to the contrary herein, Tenant shall not be obligated to pay any Rent or perform any of its other obligations under this Lease until the Commencement Date of this Lease.

2.2 Option to Terminate. If no Event of Default under this Lease exists at the time, at any time during the Term of this Lease, it shall be the option of both the Tenant and the Landlord to terminate this Lease, subject to the continuance of the Ground Lease and the Leasehold Mortgagee protections provided in Article 14 herein, effective upon thirty (30) days after written notice of such termination.

2.3 Termination and Reconveyance. Upon the end of the Lease Term or any other termination of this Lease, this Lease shall terminate, and fee title to the Premises shall be promptly, but in no case more than sixty (60) days, reconveyed (the “**Reconveyance**”) by the City to Spencrazi, L.L.C., or its permitted successors or assigns, at the time of termination, pursuant to a special warranty deed executed and delivered by the City similar to the form of Exhibit D hereto.

ARTICLE 3 RENT

The consideration for this Lease includes, without limitation, the following payments by Tenant to Landlord (collectively, the “**Rent**”):

3.1 Annual Rental. Tenant shall pay to Landlord as annual rental for the Premises the sum of One Dollar (\$1) (the “**Annual Rent**”) on the Commencement Date and on each consecutive anniversary thereof. The Landlord accepts and acknowledges the receipt of prepayment of the Rent for the Term of this Lease.

3.2 Additional Rent. Upon ten (10) days prior written notice to Tenant, Landlord may pay any sum or do any act which Tenant has failed to do (however, Landlord shall have no obligation to do so), and Tenant agrees to pay Landlord, upon demand, all sums so expended by Landlord, together with interest at a rate (the “**Default Rate**”) equal to four (4) percentage points added to the prime lending rate of JP Morgan Chase Bank, N.A. or its successor bank, as it varies from time to time. In addition to Annual Rent, such sums expended by Landlord, interest thereon and all other payments to be made by Tenant under this Lease shall be deemed “**Additional Rent**” and shall be due and payable within ten (10) days after notice thereof to Tenant if no other time for payment is specified.

ARTICLE 4 UTILITIES

In addition to the Rent and other payments herein provided, Tenant during the Term of this Lease shall pay, prior to delinquency, for all water, gas, light, power, telephone, telecommunications, cabling, sewage, refrigeration, air conditioning, heat and ventilation, janitorial and all other materials and utilities used in connection with or supplied to the Premises. To the extent not already installed, Tenant at its cost and expense shall be obligated for all utility connections, disconnections and security deposit charges applicable to the Premises. Landlord shall not be liable for, and Tenant shall not be entitled to any other relief, by reason of the unavailability, limited availability, or interruption of any utilities and services.

ARTICLE 5 TAXES AND ASSESSMENTS

5.1 Payment of Taxes and Assessments. Subject to the GPLET Abatement provisions of this Lease, Tenant shall pay, prior to delinquency: (a) all real property taxes, personal property taxes, GPLET and other taxes, assessments, levies, fees, fines, penalties and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which now or hereafter under existing or future Applicable Laws are imposed or levied upon, measured by or assessed during the Lease Term against (i) the Premises, (ii) any Annual Rent, or any Additional Rent or other sum payable by Tenant hereunder or (iii) this Lease, the leasehold estate hereby created or which arises in respect of the operation, possession or use of the Premises; and (b) all sales, transaction privilege, gross receipts or similar taxes imposed or levied upon, assessed against or measured by any Annual Rent, or other amounts payable to Landlord hereunder, but not income taxes (collectively, the “**Taxes**”). If Tenant fails to pay any Taxes before they become delinquent, Landlord, after notice to Tenant, may pay such delinquent Taxes, and all expenditures and costs incurred thereby shall be payable as Additional Rent hereunder within ten (10) days after such notice to Tenant. Tenant will furnish to Landlord, promptly after demand therefor, proof of

payment of all Taxes payable by Tenant. Tenant may pay such Taxes in installments if legally permitted to do so.

5.2 GPLET. Pursuant to A.R.S. § 42-6206, and in addition to the notice of the GPLET given in Recital F above, any failure by Tenant to pay the GPLET after notice and an opportunity to cure as set forth in Section 15.1(b) of this Lease is an Event of Default that could result in Reconveyance and the divesting Tenant of any leasehold interest in the Premises for the government property improvement.

5.3 Prorations. All Taxes due and payable in the first and last years of the Term hereof shall be prorated so that Tenant is obligated only for those Taxes accruing or due during the Lease Term.

5.4 Privilege of Contesting. Upon at least ten (10) days prior written notice to Landlord and Tenant furnishing to Landlord such bonds or other security in such form and by such issuers as reasonably approved by Landlord in an amount equal to one hundred fifty percent (150%) of the amount of Taxes being contested, Tenant shall have the right to protest, contest, object to or oppose the legality or amount of any such Taxes to be paid by Tenant hereunder. In the event of any such contest, Tenant may defer payment of any such Taxes so long as the legality or the amount thereof is being so contested, diligently and in good faith; provided, however, that if at any time payment of the whole or any part thereof shall become necessary in order to prevent the termination by sale or otherwise of the right of redemption of any property affected thereby or to prevent physical eviction of either Landlord or Tenant because of nonpayment thereof, Tenant shall pay the same in order to prevent such termination of the right of redemption or such eviction. Any such contest shall be at the sole cost and expense of Tenant and Tenant shall pay any costs or expenses incurred by Landlord as a result of any such contest. Each refund of any Taxes so contested shall be paid to Tenant, and Landlord shall not, without prior approval of Tenant, make or enter into or finally agree to any settlement, compromise or any deposition of any contest or discontinue or withdraw any contest or accept any refund, other adjustment or credit of or from any such Taxes as a result of any contest. If there are any refunds of the Taxes at the beginning or end of the Lease Term, the amounts will be prorated between Landlord and Tenant on the basis set forth in Section 5.3. Any and all penalties and interest that become due as a result of any such contest shall be paid by Tenant.

ARTICLE 6 USES; LEGAL AND ENVIRONMENTAL COMPLIANCE

6.1 Permitted Uses. Tenant shall use, occupy, and/or sublet the Premises only for the following uses and purposes and no other without the prior written consent of Landlord which consent shall not be unreasonably withheld, conditioned or delayed provided such use is consistent with the Development Agreement and Applicable Laws:

(a) for the construction, installation, furnishing, maintenance, repair, reconstruction, replacement, alteration and operation, in strict conformity with this Lease, the Development Agreement and Applicable Laws, of Improvements which use includes the development and operation of an approximately 7,575 square foot Bubba's 33 restaurant and sports bar, together with appurtenant asphalt or concrete

paving, landscaping, sidewalks and all necessary and appurtenant structures, machinery and equipment, all as more particularly described in the Site Plan approved by Landlord (the “**Bubba’s Holdings Development**”); and

(b) for construction, erection, maintenance, repair, reconstruction, replacement, alteration and operation of parking spaces in sufficient numbers to provide adequate parking, as may be approved by Landlord, for the uses to be developed and operated on the Premises.

6.2 Continuous Operation. After the issuance of a Certificate of Occupancy for the Improvements or any portion thereof, Tenant shall continuously operate and use (or cause to be operated and used) the Premises and all Improvements for which such Certificate(s) of Occupancy were issued, or such much thereof as may be sublet to third parties on terms acceptable to Tenant, for the operational purposes specified above, during all usual business hours and on all such days as similar businesses are operated in the same market area in which the Premises are located, except to the extent that Tenant is unable to operate or use (or cause to be operated and used) the Premises, or such much thereof as may be sublet to third parties on terms acceptable to Tenant, for reasons beyond the reasonable control of Tenant, such as during periods of damage or destruction.

6.3 Legal Compliance; Nuisance; Waste. Tenant shall fully comply with all Applicable Laws of all governmental authorities having jurisdiction over Premises, or any part thereof. Tenant shall pay all costs, expenses, liabilities, losses, fines, penalties, claims and demands including, without limitation, attorneys’ fees that may in any way arise out of or be imposed because of the failure of Tenant to comply with such Applicable Laws. Tenant shall not conduct or permit to be conducted any public or private nuisance on or from the Premises. Tenant shall not permit or commit any waste of the Premises.

6.4 Hazardous Substances.

(a) **Definitions.** As used herein, the term “**Hazardous Substance**” means any hazardous or toxic substance, material, or waste which is or becomes regulated by any federal, state or local governmental authority, including, without limitation, (i) any substance, chemical or waste that is or shall be listed or defined as hazardous, toxic or dangerous under Applicable Environmental Law, (ii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state or local governmental authority pursuant to any environmental, health and safety or similar law, code, ordinance, rule, regulation, order or decree and which may or could pose a hazard to the health and safety of occupants or users of the Premises or any part thereof, any adjoining property or cause damage to the environment, (iii) any petroleum products, (iv) PCB’s, i.e. polychlorinated biphenyl (v) leaded paint, and (vi) asbestos. As used in this Lease, the term “**Applicable Environmental Law**” shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, the Resources Conservation Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*, and the Safe Drinking Water Act, 42

U.S.C. §§ 300f through 300j-26, as such Acts have been or are hereafter amended from time to time; any so called Superfund or superlien law; and any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning hazardous, toxic or dangerous waste, substance or material as now or any time hereafter in effect.

(b) **Restrictions on Hazardous Substances; Remedial Work.** Tenant shall not cause or knowingly permit any Hazardous Substance to be brought, kept or used in or about the Premises by Tenant, its members, managers, officers, directors, owners, agents, employees, subtenants, assignees, vendors, suppliers, contractors, subcontractors, invitees or concessionaires (“**Tenant’s Personnel**”) except in commercial quantities not in violation of Applicable Environmental Law and similar to those quantities usually kept on similar premises by others in the same businesses. Tenant shall store, use and dispose (and shall cause Tenant’s Personnel to store, use and dispose) of any Hazardous Substance in compliance with all Applicable Laws, including, without limitation, Applicable Environmental Law. If the presence of any Hazardous Substance on, in or under the Premises caused or permitted by Tenant or Tenant’s Personnel results in any contamination of the Premises, Tenant shall promptly take all actions, at its sole expense, as are necessary to return the affected area to the condition existing prior to the introduction of any such Hazardous Substance, including, without limitation, any investigation or monitoring of site conditions or any clean up, remediation, response, removal, encapsulation, containment or restoration work required because of the presence of any such Hazardous Substance on, in or under the Premises or any release or suspected release or threat of release of any such Hazardous Substance in the air, soil, surface water or ground water (collectively, “**Tenant’s Remedial Work**”). Tenant shall obtain all necessary licenses, manifests, permits and approvals to perform Tenant’s Remedial Work. Tenant shall promptly perform all of Tenant’s Remedial Work and the disposal of all waste generated by Tenant’s Remedial Work in accordance with all Applicable Environmental Law.

(c) **Compliance with Applicable Environmental Law.** Without limiting the generality of the foregoing or any other provision of this Lease, Tenant shall be solely and completely responsible for insuring that the Premises and all activities thereon (including activities of Tenant and Tenant’s Personnel) comply fully with Applicable Environmental Law and for responding to, defending against and/or complying with any administrative order, request or demand relating to potential or actual contamination on the Premises, or third party claims (including the claims of current or future subtenants in the Premises, or other tenants or subtenants in parcels adjoining or near the Premises) for Tenant’s Remedial Work or for the costs of any such remedial work or for the costs of any such Tenant’s Remedial Work which any third-party claimant has undertaken, whether such order, request, demand or claim names Landlord, Tenant or both, or refers to the Premises in any way. Tenant’s responsibility under this Section includes but is not limited to promptly responding to such order, requests, demands and claims on behalf of Landlord and defending against any assertion of Landlord’s financial responsibility or duty to perform thereunder.

(d) **Indemnification of Landlord.** Tenant shall indemnify, save harmless and defend Landlord, its council members, officers, officials, employees, agents, successors

and assigns (collectively with Landlord, the “**Landlord Indemnitees**”) for, from and against any and all claims (including, without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses (including, without limitation, diminution in value of the Premises and the Improvements to the Premises, damages for the loss or restriction on use of rentable space or of any amenity in the Improvements to the Premises, damages arising from any adverse impact on marketing of space in the Improvements to the Premises, and sums paid in settlement of claims, attorney’s fees, consultant fees, expert fees and any fees and expenses incurred in enforcing this indemnity) incurred by, sought from or asserted directly or indirectly against any Landlord Indemnitees during or after the Term of this Lease as a result of the presence of any Hazardous Substance on, in or under the Premises or any release of any Hazardous Substance into the air, soil, surface water or ground water, which Hazardous Substance was brought, kept or used in or about the Premises by Tenant or Tenant’s Personnel, or as a result of a breach by Tenant of its obligations under this Section 6.4. Tenant shall promptly provide Landlord copies of all communications, filings or other writings, photographs or materials given to or received from any person, entity or agency in connection with any cleanup or Tenant’s Remedial Work conducted by Tenant, and shall notify Landlord of, and permit Landlord’s representative to attend, any meetings or oral communications relating thereto.

(e) **Survival**. The forgoing obligations and indemnities set forth in this Section 6.4 shall survive the termination or expiration of this Lease.

ARTICLE 7

DEVELOPMENT OF THE PREMISES AND CONSTRUCTION OF IMPROVEMENTS; TRADE FIXTURES

7.1 Development. The planning and development of the Premises and Improvements has been or will be achieved pursuant to the applicable provisions of the Development Agreement and Landlord’s normal review and construction inspection process.

7.2 Alterations. In addition to the initial Improvements pursuant to Section 7.1 above, Tenant at its sole cost and expense may make, or permit to be made, additions and alterations to the Improvements now or hereafter located on the Premises, provided that (a) all such additions and alterations shall be constructed of new, high quality materials in a workmanlike manner, and shall not weaken or impair the structural strength or materially decrease the value of any existing Improvements; (b) all such additions and alterations shall comply with Applicable Laws, including without limitation obtaining all required permits and approvals of such construction from the governmental authorities and utilities having jurisdiction thereof; and (c) Tenant has complied with the provisions of Section 7.3 with respect thereto.

7.3 Plans and Specifications; Contractors. All construction work on the Premises, and all Major Alterations and additions thereto, shall be done in compliance with and pursuant to detailed plans, drawings and specifications first approved in writing by Landlord, such approval not to be unreasonably withheld or delayed and to be presumed given if written notice of disapproval is not given within fifteen (15) Business Days of Landlord’s receipt of a request for

approval (“**Business Days**” hereby defined to mean calendar days other than Fridays, Saturdays, Sundays and legal holidays observed by the City of Yuma), and by duly licensed and reputable contractors. Any modifications to any such Major Alteration plans, drawings and specifications shall also require the prior written approval of Landlord, such approval not to be unreasonably withheld or delayed and to be presumed given if written notice of disapproval is not given within fifteen (15) Business Days of Landlord’s receipt of a request for approval. As used herein, “**Major Alterations**” means Alterations involving any modifications to the structural, mechanical, electrical, plumbing, fire/life safety or heating, ventilation and air conditioning systems of the Building.

7.4 Ownership of Improvements. In addition to the Landlord’s Ownership of the Premises, all Improvements, and all alterations and additions thereto, constructed or to be constructed by or on behalf of Tenant are hereby conveyed to and shall remain the property of Landlord during the Term of this Lease, subject to any Leasehold Mortgage. Upon the expiration of this Lease, all such Improvements, and all alterations and additions thereto, shall be reconveyed and become the property of Tenant. This Section excludes Trade Fixtures and Personal Property (as defined in Section 18.1).

7.5 Mechanics’ Liens.

(a) **Tenant Not Agent of Landlord.** Notice is hereby given that Tenant is not the agent of Landlord for the construction, alteration or repair of any Improvements, the same being done at the sole direction and expense of Tenant. All contractors, materialmen, mechanics, and laborers are hereby charged with notice that they must look only to Tenant for the payment of any charge for work done or material furnished on the Premises during the Lease Term. Tenant shall have no right, authority or power to bind Landlord or any interest of Landlord for the payment of any claim for labor or material, or for any charge or expense, incurred by Tenant as to Improvements, additions, alterations or repairs on or to the Premises, and Tenant shall post notices on the Premises during all construction work of any nature whatsoever that Landlord is not responsible for any material and labor used on the Premises.

(b) **Landlord’s Protection.** Tenant shall not suffer or permit to be enforced against the Premises, or any part thereof, and shall indemnify, defend and hold Landlord and the Premises harmless for, from, and against (i) any mechanics’, materialman’s, contractor’s or subcontractor’s liens arising from, and (ii) any claim for damage arising from, the work or any construction, repair, restoration, replacement, or improvement done by or on behalf of Tenant. Tenant shall pay or cause to be paid all of such liens, claims, or demands before any action is brought to enforce the same against the Premises. If Tenant shall in good faith contest the validity of any such lien, claim, or demand, then Tenant shall, at its expense, defend itself and Landlord against the same and shall pay and satisfy any adverse judgment that may be rendered thereon prior to execution thereof and in the event of any such contest Tenant shall at the request of Landlord provide such security and take such steps as required by A.R.S. §33-1003 or other Applicable Laws to release the Premises from the effect of such lien.

7.6 Easements; Restrictive Covenants. In connection with the further development of the Premises, Landlord agrees to:

(a) **Easements.** Join with Tenant in granting to public utilities or public service corporations, for the purpose of serving only the Premises, reasonable easements on, under, or over the Premises for telephone, electricity, water, cable, sanitary or storm sewers or both, drainage facilities, and for other utilities; and

(b) **CC&Rs.** Consent to or join with Tenant in granting or otherwise subjecting portions of the Premises to such covenants, conditions, restrictions and reciprocal easements as are reasonably necessary or appropriate in connection with the further development of the Premises.

ARTICLE 8 REPAIRS AND MAINTENANCE

8.1 Obligations of Tenant. During the Lease Term, Tenant, at its sole cost and expense, shall keep and maintain (or cause to be kept and maintained) all of the Improvements now or hereafter located on the Premises, together with all additions and alterations thereto, and all fixtures and equipment therein, in good, attractive and safe condition and repair and shall make all necessary repairs, replacements and renewals, whether structural or non-structural, foreseen or unforeseen, ordinary or extraordinary, in order to maintain such state of repair and condition, it being understood and agreed that Landlord shall have no liability for any of the foregoing. Tenant's maintenance and repair obligations shall apply, without limitation, to the maintenance, repair and replacement of all buildings, heating, ventilation and air conditioning equipment, windows and plate glass, wiring, plumbing, roadways, driveways, parking areas, landscaping, sidewalks, fencing, lighting, retention ponds, drainage and utility facilities and other Improvements located on, in, or under the Premises. Tenant, at Tenant's expense, shall be responsible for all improvements, additions, alterations, maintenance, and repairs necessary or appropriate such that the Premises and all Improvements thereon are in substantial compliance with Applicable Laws. In addition, but notwithstanding anything contained in this Section 8.1 to the contrary (and subject to causes beyond Tenant's reasonable control which are described in Articles 10 and 11 hereof), Tenant shall cause the Improvements to be maintained in good repair and condition and in conformity with Applicable Laws. Tenant shall make or cause to be made such routine maintenance, repairs and minor alterations to the Premises as Tenant, from time to time, reasonably deems necessary. Tenant waives any provisions of Applicable Laws that may require any duty of repair by Landlord or permit Tenant to make repairs at the expense of Landlord.

ARTICLE 9 INDEMNITY AND INSURANCE

9.1 Indemnity. Tenant shall pay, defend, indemnify and hold harmless each and all Landlord Indemnitees from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys' fees, experts' fees and court costs associated therewith) arising out of (a) any accident or other occurrence causing injury to or death of persons or damage to property by reason of construction or maintenance of any Improvements, of any additions, alterations or renovations thereto, or due to

the condition of the Premises or any Improvements thereon, or the use or neglect thereof by Tenant, Tenant's Personnel, or any other person, or otherwise occurring upon the Premises or any Improvements thereon, or (b) arising out of any failure of Tenant to comply with any of Tenant's obligations under this Lease; provided however, that the provisions of (a) and (b) of this Section 9.1 shall not apply to loss or damages or claims therefore which are attributable to acts or omissions of Landlord or any other Landlord Indemnitee, and their respective employees, contractors, subcontractors, agents or representatives, and Tenant shall have no defense obligations in any instance in which a claim is asserted based, in whole or in part, upon an act or omissions of Landlord, its employees, contractors, subcontractors, agents or representatives.

9.2 GPLET Release and Indemnity. Notwithstanding anything to the contrary in Section 9.1 or elsewhere in this Lease or the Development Agreement, Tenant shall defend, indemnify, release and hold harmless the City and its City Council members, officers, employees and agents from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, liabilities and lawsuits or arbitration, mediation and other dispute resolution proceedings (including without limitation attorneys' fees, experts' fees and associated costs) which arise from or relate in any way to A.R.S. §§ 42-6201 through 42-6210 (the "**GPLET**"), regardless of any acts or omissions by the City or any other party, including without limitation (i) the repeal or amendment of the GPLET statutes as they exist on the Execution Date of this Lease; (ii) the failure of the GPLET Abatement for any cause; or (iii) the Premises not being located within the City's central business district or within a slum or blighted area pursuant to A.R.S. Title 36, Chapter 12, Article 3.

9.3 Liability, Etc. Insurance. Tenant shall, at all times during the Lease Term and at the sole cost and expense of Tenant, procure and maintain liability and other insurance in accordance with and in amounts and coverages set forth in Section 9.4 and on Exhibit B hereto.

9.4 Casualty Insurance. Tenant, at its sole cost and expense, shall obtain and continuously maintain in full force and effect during the Lease Term, policies of insurance covering the Improvements now or hereafter constructed, installed or located on the Premises naming the Landlord, as an additional insured, against (a) loss or damage by fire; (b) loss or damage from such other risks or hazards now or hereafter covered by a current ISO form "special causes of loss" (also known as "all-risk") policy (or similar policy providing comparable coverage), including, but not limited to, windstorm, hail, explosion, vandalism, riot and civil commotion, damage from vehicles, smoke damage, water damage and debris removal; (c) loss for flood, if required by Lender (as defined in the Development Agreement), if the Premises are in a designated flood or flood insurance area; (d) loss for damage by earthquake, if required by Lender, if the Premises are located in an earthquake-prone area; (e) loss from so-called explosion, collapse and underground hazards; (f) loss or damage covered by a customary policy of boiler and machinery insurance to the extent applicable to the Improvements; and (g) loss or damage from such other risks or hazards of a similar or dissimilar nature which are now or may hereafter be customarily insured against with respect to improvements similar in construction, design, general location, use and occupancy to the Improvements. Such insurance coverage at all times shall be in an amount equal to ninety percent (90%) of the then Full Replacement Cost of the Improvements. "**Full Replacement Cost**" means the cost of replacing the Improvements without deduction for depreciation or wear and tear, and shall include a reasonable sum for architectural, engineering, legal, administrative and supervisory fees connected with the restoration or

replacement of the Improvements in the event of damage thereto or destruction thereof. If a sprinkler system shall be located in any of the Improvements, sprinkler leakage insurance consistent with the foregoing general requirements shall be procured and continuously maintained by Tenant at Tenant's sole cost and expense. All such policies shall comply with the insurance requirements in Paragraphs D, E and F of Exhibit B hereto and shall provide that loss, if any, payable thereunder shall be payable to Tenant (or to the Leasehold Mortgagee, if required by the terms of any Leasehold Mortgage) to be held in trust and disbursed for the restoration and repair of the Premises pursuant to Section 10.3 or allocated between Landlord and Tenant after a termination of the Lease pursuant to Section 10.2, whichever is applicable.

9.5 Waiver of Subrogation and Release of Claims. Tenant, on behalf of Tenant and its insurers, waives, releases and discharges Landlord from all claims, actions, demands, liabilities, damages, costs, penalties, forfeitures, losses or expenses, including, without limitation, attorneys' fees and the costs and expenses of enforcing any indemnification, defense or hold harmless obligation under this Lease (collectively, "**Claims**"), arising out of personal injury or damage to or destruction of the Premises or Tenant's trade fixtures, other personal property or business, and any loss of use or business interruption, occasioned by any fire or other casualty or occurrence whatsoever (whether similar or dissimilar), regardless whether any of such Claims results from the negligence or fault of Landlord or otherwise, and Tenant will look only to Tenant's insurance coverage (regardless whether Tenant maintains any such coverage, regardless whether any such insurance covers such Claims and regardless of any self-insured retention maintained by Tenant) in the event of any such Claims. Tenant's Trade Fixtures and Personal Property and all other property in Tenant's care, custody or control, is located within the Premises at Tenant's sole risk, and Landlord is not liable for any damage to or for any theft, misappropriation or loss of such Trade Fixtures and Personal Property. Tenant is solely responsible for providing such insurance as may be required to protect Tenant and Tenant's Personnel against any injury, loss, or damage to persons or property occurring within the Premises, including, without limitation, any loss of business or profits from any casualty or other occurrence within the Premises.

9.6 Conflict. If any of the foregoing provisions of this Article 9 conflict with the Development Agreement, the provisions of this Article 9 shall prevail.

9.7 Survival. The foregoing provisions of this Article 9 shall survive the expiration or termination of this Lease for a period equal to the applicable statute of limitations period.

ARTICLE 10 DAMAGE AND DESTRUCTION

10.1 Damage or Destruction. Subject to the provisions of Sections 10.2 and 10.3, if any Improvements are damaged or destroyed during the Lease Term by fire, earthquake, flood or any other casualty covered or required to be covered by a policy of insurance to be maintained pursuant to Article 9, Tenant shall repair and/or rebuild, and or cause to be repaired and/or rebuilt, the same (a "**Restoration**") so that the repaired or rebuilt Improvements shall have at least the same values as such Improvements immediately prior to such damage or destruction, such construction to be undertaken and completed in accordance with the requirements of Article 7. In no event whatsoever shall Landlord be required to repair, replace, or restore any Improvements as a result of any such damage or destruction. No damage to or destruction of Improvements shall

effect an abatement or reduction in Rent or, except as provided in Section 10.2, a termination of this Lease, and Tenant waives any provisions of Applicable Laws that may be to the contrary.

10.2 Lease Termination by Tenant. If the Improvements are damaged or destroyed (a) at any time during the Term of this Lease by fire or other casualty covered or required to be covered by a policy of insurance to be maintained pursuant to Article 9 and the cost of repairing or rebuilding such Improvements exceeds twenty percent (20%) of the full replacement value thereof; or (b) at any time during the Term of this Lease by casualties not covered or required to be covered by a policy of insurance to be maintained pursuant to Article 9 and the cost of repairing or rebuilding such Improvements exceeds twenty-five percent (25%) of the full replacement value thereof, Tenant, by giving written notice to Landlord within sixty (60) days after the occurrence of such damage or destruction and by removing, if requested by Landlord and approved by any permitted Leasehold Mortgagee, any damaged or destroyed Improvements and leveling and grading that portion of the Premises underlying such removed Improvements, may elect to terminate this Lease. Also, if a Restoration of any damaged or destroyed Improvements shall not occur by reason of any Leasehold Mortgagee applying the insurance monies to the repayment of any amounts due under its Leasehold Mortgage as permitted by Section 10.3 below, either party, by giving written notice to the other, may elect to terminate this Lease with respect to that portion of the Premises underlying such damaged or destroyed Improvements, as well as the parking or common area therefor. Notwithstanding anything contained in this Lease to the contrary, in the event of a termination of the Lease pursuant to this Section 10.2, the balance of any insurance monies payable by reason of any damage or destruction shall be paid for the full cost to remove the damaged or destroyed Improvements and to level and grade that portion of the Premises underlying such removed Improvements, with the balance thereof to be disbursed to the permitted Leasehold Mortgagee(s) and applied to the repayment of its or their Leasehold Mortgage(s).

10.3 Application of Insurance Proceeds. All insurance monies on account of such damage or destruction, less the costs, if any, of such recovery, shall be disbursed to the permitted Leasehold Mortgagee(s) and, in the sole and absolute discretion of any permitted Leasehold Mortgagee(s), applied either to the cost of Restoration or to the repayment of any amounts due under the Leasehold Mortgage(s); provided, however, that if any Leasehold Mortgagee applies such insurance monies to the repayment of its Leasehold Mortgage, that portion of such insurance monies required to pay the full cost to remove the damaged or destroyed Improvements and to level and grade the portion of the Premises underlying such removed Improvements shall be excluded from the repayment of amounts due under the Leasehold Mortgage(s) and, instead, shall be paid for the full cost of removing the damaged or destroyed Improvements and leveling and grading the portion of the Premises underlying such removed Improvements. To the extent that a Leasehold Mortgagee elects to allow the insurance monies to be utilized for the Restoration, such insurance monies shall be applied to the payment of the costs of the Restoration and shall be paid out from time to time as the Restoration progresses upon the written request of Tenant (such written request to be made to Landlord and the insurer or, if the Leasehold Mortgagee requires such insurance proceeds to be held by the Leasehold Mortgagee, to Landlord, the Leasehold Mortgagee, and the insurer), accompanied by a certificate of the architect or a qualified professional engineer in charge of the Restoration stating that as of the date of such certificate (a) the sum requested is justly due to the contractors, subcontractors, materialmen, laborers, engineers, architects or persons, firms or corporations furnishing or supplying work, labor, services or materials for such Restoration, or is justly required to reimburse Tenant for any expenditures made by Tenant in

connection with such Restoration, and when added to all sums previously paid out by Landlord does not exceed the value of the Restoration performed to the date of such certificate by all of said parties; (b) except for the amount, if any, stated in such certificate to be due for work, labor, services or materials, there is no outstanding indebtedness known to the person signing such certificate, after due inquiry, which is then due for work, labor, services or materials in connection with such Restoration, which, if unpaid, might become the basis of a mechanic's lien or similar lien with respect to the Restoration or a lien upon the Premises, or any portion thereof; and (c) the costs, as estimated by the person signing such certificate, of the completion of the Restoration required to be done subsequent to the date of such certificate in order to complete the Restoration do not exceed the sum of the remaining insurance monies, plus the amount deposited by Tenant, if any, remaining in the hands of Landlord (or, if the Leasehold Mortgagee requires such insurance proceeds to be held by the Leasehold Mortgagee, in the hands of the Leasehold Mortgagee) after payment of the sum requested in such certificate. Landlord (or the Leasehold Mortgagee, if applicable) and Tenant shall not be required to pay out any insurance monies where Tenant fails to supply satisfactory evidence of the payment of work, labor, services or materials performed, furnished or supplied, as aforesaid. Upon completion of the Restoration and payment in full thereof by Tenant, Tenant shall be entitled to receive any insurance monies or other monies then remaining upon submission of proof reasonably satisfactory to Landlord that the Restoration has been paid for in full and the damaged or destroyed Improvements repaired, restored or rebuilt as nearly as possible to the condition there were in immediately prior to such damage or destruction, or with such additions or alterations as may be made in accordance with Section 7.2 above.

ARTICLE 11 CONDEMNATION

11.1 Entire or Substantial Condemnation. If all or Substantially all of the Premises shall be lawfully taken by condemnation or other eminent domain proceedings pursuant to any Applicable Laws, general or special, this Lease shall terminate on the date of such taking. All Rent required to be paid by Tenant under this Lease shall be paid up to the date of such termination and upon such termination this Lease shall be of no further force and effect, except that any obligation or liability of either Party, actual or contingent, under this Lease which has accrued on or prior to such termination date shall survive and any prepayment of Rent shall be prorated between the Parties. For purposes of this Section "**Substantially All of the Premises**" shall mean such portion of the Premises as, when so taken, would leave remaining a balance of the Premises which, due either to the area so taken or the location of the part so taken in relation to the part not so taken, would not under economic conditions, applicable zoning laws and building regulations then existing or prevailing, reasonably accommodate Tenant's business as conducted at the date of such taking. Tenant, in cooperation with Landlord, shall have the right to participate in any condemnation proceedings and be represented by legal counsel for the purpose of protecting its interests hereunder.

11.2 Continuation of Lease. In the event of a taking of less than all or Substantially All of the Premises, this Lease shall continue in effect with respect to the portion of the Premises not so taken, and Tenant at its expense, to the extent Tenant has received the award for the taking, shall proceed with reasonable diligence with restoring the remaining parts of the Premises, subject to Section 7.2, to substantially the condition existing immediately prior to the date of taking to the extent that the same may be feasible to constitute a complete and tenantable Premises.

11.3 Award. Except for a partial taking that does not result in a termination of this Lease, the Tenant shall receive the entire award. In the case of a partial taking which does not result in a termination of this Lease, and, provided no Default shall have occurred and be continuing, such award shall be paid in the same manner as insurance proceeds are paid pursuant to Section 10.3 for the cost of restoring the Premises pursuant to Section 11.2 hereof. Nothing herein contained shall prohibit Tenant from making a separate claim, to the extent permitted by Applicable Laws, for the value of Tenant's relocation expenses, Trade Fixtures and Personal Property.

11.4 Notice of Condemnation. In the event any action is filed to condemn the Premises or any part thereof by any public or quasi-public authority under the power of eminent domain, or in the event that action is threatened or any public or quasi-public authority communicates to Landlord or Tenant its desire to acquire the Premises or any part thereof by a voluntary conveyance or transfer in lieu of condemnation, either Landlord or Tenant shall give prompt notice thereof to the other Party and each shall have the right, at its own cost and expense, to represent its respective interest in each proceeding, negotiation or settlement with respect to any taking or threatened taking. No agreement, settlement, conveyance or transfer to or with the condemning authority affecting the Premises shall be made without the prior written approval of both Landlord and Tenant.

ARTICLE 12 NET LEASE

This Lease shall be interpreted and construed as an absolute net lease, and it is the express intent and agreement of Landlord and Tenant that (a) the obligations of Landlord and Tenant hereunder shall be separate and independent covenants and agreements and the Rent and all other charges payable by Tenant hereunder shall be payable in all events without abatement, deduction, diminution, deferment, suspension, reduction or setoff whatsoever, unless this Lease shall be terminated pursuant to Section 2.2 or Articles 10 or 11 hereof; (b) all costs or expenses of whatever character or kind, general or special, ordinary or extraordinary, foreseen or unforeseen, and of every kind and nature whatsoever that may be necessary, appropriate or required in and about the Premises or any part thereof, or in connection with Tenant's possession or authorized use thereof during the Term of this Lease, shall be paid by Tenant; (c) the Rent shall be absolutely net to Landlord; (d) all Taxes, insurance premiums, utility expenses, repair and maintenance expense, and all other costs, fees, interest, charges, expenses, reimbursement and obligations of every kind and nature whatsoever relating to the Premises, or any portion thereof, which may arise or become due during the Term of this Lease, or any extension or renewal thereof, shall be paid or discharged by Tenant as Additional Rent; and (e) Tenant shall indemnify, defend and save Landlord harmless from and against such costs, fees, charges, expenses, reimbursements and obligations, any interest thereon. Except as otherwise expressly provided in Articles 10 and 11 hereof, this Lease and the rights of Landlord and the obligations of Tenant hereunder shall not be affected by any event or for any reason, including without limitation: (i) any damage to or theft, loss or destruction of any of the Premises by fire, flood, earthquake or other casualty, (ii) any condemnation, (iii) any default on the part of Landlord hereunder, (iv) any latent or other defect in any of the Premises, (v) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution or winding-up of, or other proceeding, affecting either of the Parties, (vi) the exercise of any remedy, including without limitation foreclosure, under any Leasehold Mortgage, collateral assignment or

other encumbrance, (vii) any action with respect to this Lease (including the disaffirmance hereof) which may be taken by any trustee, receiver or liquidator of either of the Parties or any court under the Federal bankruptcy laws or otherwise, (viii) any interference with Tenant's use of the Premises, (ix) market or economic changes or (x) any other cause, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding. Landlord shall have no responsibility, obligation or liability under this Lease whatsoever with respect to disruption or unavailability of gas, heat, water, light, power, telephone, telecommunications, cabling, sewage, and any other utilities or services for or to the Premises; maintenance, repair or Restoration of the Premises; or any other cost, expense, duty, obligation, service or function whatsoever related to the Premises.

ARTICLE 13 ASSIGNMENT

13.1 Restrictions on Transfer. Except as permitted in Section 13.3 below, or in Article 14 hereof, Tenant shall not assign, mortgage, pledge, or otherwise encumber this Lease, or any interest therein, or in any manner assign, mortgage, pledge, or otherwise encumber its interest or estate in the Premises, or any portion thereof (each of which are herein referred to sometimes as a "**Transfer**"), without obtaining Landlord's prior written consent in each and every instance, such consent not to be unreasonably withheld, conditioned or delayed. Tenant's request for Landlord's consent to a Transfer must describe in detail the parties and portion of the Premises involved in the proposed Transfer. If Landlord consents to a Transfer, the following terms and conditions shall apply:

(a) Any assignment of this Lease shall transfer to the assignee all of Tenant's right, title and interest in this Lease and all of Tenant's estate or interest in the Premises.

(b) Any such assignee shall assume, by written, recordable instrument, in form and content reasonably satisfactory to Landlord, the due performance of all of Tenant's obligations under this Lease, including any accrued obligations at the time of the effective date of the assignment, and such assumption agreement shall state that the same is made by the assignee for the express benefit of Landlord as a third party beneficiary thereof, whereupon Tenant shall be released from all liability under this Lease. A copy of the assignment and assumption agreement, both in form and content reasonably satisfactory to Landlord, fully executed and acknowledged by the assignee, together with a certified copy of a properly executed corporate resolution (if assignee or its signatory is a corporation) authorizing the execution and delivery of such assumption agreement, shall be sent to Landlord within a reasonable time following the effective date of such assignment.

(c) No Event of Default under this Lease shall exist at any time of any assignment, nor when Tenant requests Landlord's written consent thereto.

(d) Any assignment shall be subject to all the provisions, terms, covenants and conditions of this Lease.

(e) No assignee shall further assign its interest in this Lease or in the Premises, or any portion thereof, without Landlord's prior written consent in each and every instance, which consent shall not be unreasonably withheld or unduly delayed.

(f) Tenant shall pay or reimburse Landlord as Additional Rent any and all costs of Landlord, including reasonable attorney's fees paid or payable to outside counsel, occasioned by such Transfer in an amount not to exceed One Thousand Dollars (\$1,000).

(g) Tenant's failure to comply with all of the provisions and conditions of this Section 13.1 shall (whether or not Landlord's consent is required under this Section 13), at Landlord's option, render any purported Transfer or sublease null and void and of no force and effect.

(h) Landlord consents to the Ground Lease.

13.2 Landlord's Consent Standard. For purposes of Section 13.1 and in addition to any other reasonable grounds for denial, Landlord's consent to any requested Transfer described in Section 13.1 will be deemed reasonably withheld if, in Landlord's good faith judgment, any one or more of the following apply: (i) a proposed assignee of the entire Premises does not have the financial strength to perform the Tenant's obligations under this Lease; (ii) the business and operations of the proposed assignee are not of comparable quality to the business and operations being conducted by Tenant in the Premises; (iii) the proposed assignee does not have a good business reputation; (iv) the use of the Premises by the proposed assignee would, in Landlord's reasonable judgment, impact the Premises in a negative manner; (v) the proposed assignee is a government entity (or agency or instrumentally thereof); or (vi) an Event of Default exists under this Lease at the time Tenant requests consent to the proposed transaction.

13.3 Transfer to Affiliate. Provided that no Event of Default exists under this Lease, Tenant may, without Landlord's consent, assign all or a portion of this Lease or the Premises to an Affiliate (as herein defined) if (a) Tenant notifies Landlord of such assignment, including the name of the Affiliate and terms of the assignment, at least twenty (20) days prior to such assignment; and (b) Tenant delivers to Landlord, not later than the effective date of the assignment, a written agreement reasonably acceptable to Landlord under which the assignee assumes and agrees to perform Tenant's obligations under this Lease and to observe all terms and conditions of this Lease. Tenant will also promptly provide Landlord with copies of any documents reasonably requested by Landlord to document the status and relationship between Tenant and its Affiliate. A Transfer to an Affiliate shall not release Tenant from any liability or obligation under this Lease. "**Affiliate**" means (i) any person or entity that, directly or indirectly, controls, is controlled by or is under common control with Tenant or any of its controlling principals; (ii) any trust or entity created by any of Tenant's controlling principals for estate planning purposes; (iii) any entity into which Tenant is consolidated or merged; and (iv) any entity to which substantially all of the assets of Tenant are transferred. For purposes of this definition, "**control**" means possessing the power to direct or cause the direction of management and policies of the entity by the ownership of a majority of the voting securities of the entity. In the event of consolidation of Tenant with one or more other entities or the sale or other disposition of all or substantially all of the assets of Tenant to one or more entities, the surviving entity or transferee of assets, as the case may be, shall deliver

to Landlord, and any assignee of any interest of Landlord, an acknowledged instrument assuming all obligations, covenants and responsibilities of Tenant hereunder.

ARTICLE 14

LEASEHOLD MORTGAGE OF PREMISES

14.1 Permitted Encumbrances. Tenant and/or Bubba's Holdings, from time to time during the Lease Term, may encumber either's respective leasehold interest in the Premises under this Lease, or any part thereof, or any of the Improvements, by one or more Leasehold Mortgages (as defined below), and assign their respective interest in this Lease and/or the Ground Lease, or any part or parts thereof, as collateral security therefor; subject to the following:

(a) For the purposes of this Lease, the term "**Leasehold Mortgage**" shall mean an encumbrance on a leasehold interest in the Premises under this Lease, including the leasehold interest created under the Ground Lease, which shall be deemed to include a deed of trust and such other types of security instruments as are commonly given to secure loans or advances for the construction and permanent financing and refinancing of improvements and property similar to the Improvements and the Premises, and the term "**Leasehold Mortgagee**" shall mean a bank, insurance company, pension fund or other financial institution which is the holder of record of a Leasehold Mortgage (including a beneficiary or trustee under a deed of trust).

(b) Tenant or the Leasehold Mortgagee shall promptly deliver to Landlord in the manner provided in this Lease for the giving of notice to Landlord a true and complete copy of the Leasehold Mortgage and of any assignment thereof and shall notify Landlord of the address to which notices to the Leasehold Mortgagee may be sent.

(c) The Leasehold Mortgage shall secure financing to be utilized only for the Premises, including, without limitation, the development and construction of the Improvements.

(d) The Leasehold Mortgage shall include provisions to the effect that any notice of default under the Leasehold Mortgage shall be delivered to Landlord, as well as to Tenant; that Landlord shall have the same time period as is available to Tenant within which to cure a default, with Landlord's time period for curing a default running concurrently with the time period available for Tenant's cure of such defaults; and that neither Landlord's right to cure a default nor Landlord's exercise of such right shall be deemed to be an assumption by Landlord of liability under the Leasehold Mortgage.

(e) In the event of an Event of Default by Tenant, Landlord shall provide notice of such Event of Default, at the same time notice is provided to Tenant, to not more than two (2) of such Leasehold Mortgagees, as previously designated by Tenant to receive such notice (the "**Designated Lenders**") whose names and addresses were provided by written notice to Landlord in accordance with Article 16. Landlord shall give Tenant copies of any such notice provided to such Designated Lenders and, unless Tenant notifies Landlord

that the Designated Lenders names or addresses are incorrect (and provides Landlord with the correct information) within three (3) Business Days after Tenant receives its copies of such notice from Landlord, Landlord will be deemed to have given such notice to the Designated Lenders even if their names or addresses are incorrect. Tenant may provide notices to other Leasehold Mortgagees.

(f) It may be necessary for the Leasehold Mortgagees to enter into an agreement among themselves, Tenant and/or its permitted assignees, acknowledging the various rights of the Leasehold Mortgagees (the “**Triparty Agreement**”). Landlord agrees that it shall execute such Triparty Agreement only for the purpose of acknowledging the rights of such Leasehold Mortgagees in this Lease, provided that such Triparty Agreement imposes no additional obligations upon nor diminishes any rights of Landlord other than those contained within this Lease. If a Leasehold Mortgagee is permitted, under the terms of its nondisturbance agreement with Landlord, or under a Triparty Agreement executed by Landlord, to cure the Event of Default and/or to assume Tenant’s position with respect to this Lease, Landlord agrees to recognize such rights of the Leasehold Mortgagee or Leasehold Mortgagees under the Triparty Agreement, and to otherwise permit each such Leasehold Mortgagee to assume all of its respective rights and obligations of Tenant under this Lease. Landlord shall, at any time upon reasonable request by Tenant, provide to any Leasehold Mortgagee an estoppel certificate or other document evidencing that this Lease is in full force and effect and that no Event of Default by Tenant exists hereunder (or, if appropriate, specifying the nature and duration of any existing Event of Default). Upon request by a Leasehold Mortgagee, Landlord will enter into a separate nondisturbance agreement with each such Leasehold Mortgagee, consistent with the provisions of this Article 14.

(g) From and after receiving notice of the existence of a Designated Lender’s Leasehold Mortgage, Landlord and Tenant shall not cancel, surrender, modify or amend this Lease in any respect without the prior written consent of the Designated Lender.

(h) Any Leasehold Mortgagee may be added as a named insured or to the "loss payable endorsement" of any and all insurance policies required to be carried by Tenant under this Lease on the condition that the insurance proceeds are to be applied in the manner specified in this Lease. The proceeds of any insurance policies or proceeds arising from a condemnation shall be held by any Leasehold Mortgagee and distributed pursuant to the provisions of this Lease, but the Leasehold Mortgagee may reserve its right to apply to the Leasehold Mortgage debt all, or any part of Tenant's share of such proceeds pursuant to such Leasehold Mortgage.

(i) Landlord consents to a provision in any Leasehold Mortgage for an assignment of rents due to Tenant from sublessees to the holder thereof, effective upon any default under Leasehold Mortgage, and to a provision in the Leasehold Mortgage that the holder thereof in any action to foreclose the same shall be entitled to the appointment of a receiver.

14.2 Leasehold Mortgagee’s Rights on Tenant’s Default.

(a) If Tenant shall Default under any of the provisions of this Lease, each Leasehold Mortgagee shall have the right and period of time as Tenant to cure such Default, whether the same consists of the failure to pay Rent or the failure to perform any other obligation which Tenant is required to do or perform, and Landlord shall accept such performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant; provided, that any of the Designated Lenders after receiving notice in accordance with Section 14.1 will have forty-five (45) days more than is given Tenant after notice to such Designated Lender, to remedy such default by Tenant.

(b) In the event any Leasehold Mortgagee becomes an owner of Tenant's interest under this Lease by foreclosure of its Leasehold Mortgage or as a result of the assignment of this Lease in lieu of foreclosure, the Leasehold Mortgagee shall not become liable under the provisions of this Lease unless and until such time as it becomes, and then only for as long as it remains, an owner of Tenant's interest under this Lease. Any purchaser at a foreclosure sale, other than a Leasehold Mortgagee, shall assume all of Tenant's obligations under this Lease and such purchaser shall have no right with respect to the Premises unless it so assumes and delivers a duplicate of the assumption agreement (to be executed in due form for recording) within ten (10) days after such purchaser acquires Tenant's interest under this Lease.

14.3 Right to New Lease. In the event of termination of this Lease for any reason (including but not limited to any Default by Tenant), Landlord, if requested by Bubba's Holdings or any Leasehold Mortgagee, will enter into a new lease of the Premises with Bubba's Holdings or the most senior Leasehold Mortgagee requesting a new lease, which new lease shall commence as of the date of termination of this Lease and shall run for the remainder of the original Term of this Lease, at the same Rent and upon the same terms, covenants and conditions herein contained; provided that

(a) Bubba's Holdings or such Leasehold Mortgagee shall make written request upon Landlord for the new lease within thirty (30) days after the date Bubba's Holdings or such Leasehold Mortgagee receives written notice from Landlord that the Lease is to be terminated;

(b) Bubba's Holdings or such Leasehold Mortgagee shall pay to Landlord, at the time of the execution and delivery of said new lease, any and all sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination, and in addition pays to Landlord any and all expenses, including reasonable attorneys' fees, court costs and disbursements incurred by Landlord in connection with any such Default and termination, as well as in connection with the execution and delivery of such new lease;

(c) Each sublessee of the Premises whose sublease was in force and effect immediately prior to termination of this Lease, and which did not expire of its own terms prior to the delivery of said new lease, shall attorn to the tenant under said new lease; and

(d) Any new lease made in accordance with the provisions of this Section 14.3 and the leasehold estate thereby created shall, subject to the same conditions contained in

this Lease, continue to maintain the same priority as this Lease with regard to any then existing Leasehold Mortgage.

14.4 Leasehold Mortgage; Further Assurances. Landlord and Tenant shall cooperate in including in this Lease, by suitable amendment from time to time, any provision that may be reasonably requested by any proposed Leasehold Mortgagee which is a Designated Lender for the purpose of implementing the mortgagee protection provisions contained in this Lease by (i) allowing such Leasehold Mortgagee reasonable means to protect or preserve the lien of its Leasehold Mortgage upon the occurrence of a Default under the terms of this Lease, and (ii) confirming the elimination of the ability of Tenant to modify, terminate, or waive this Lease or any of its provisions without the prior written approval of such Leasehold Mortgagee. Landlord and Tenant each agree to execute and deliver (and to acknowledge, if necessary, for recording purposes) any such amendment; provided, however, that any such amendment shall not in any way affect the Term or Rent under this Lease nor otherwise in any material respect adversely affect any rights or obligations of Landlord under this Lease; and, provided further, that any such amendment shall be subject to approval by Landlord's City Council. Neither disapproval by Landlord's City Council of such an amendment for any reason whatsoever, nor any delay by Landlord's City Council in deciding to approve or disapprove such an amendment, shall result in any liability to Landlord or affect any time periods set forth in this Lease.

ARTICLE 15 EVENTS OF DEFAULT; REMEDIES

15.1 Events of Default. The occurrence of any of the following events shall be a default or breach of this Lease by Tenant (each a "**Default**" or "**Event of Default**"):

(a) if Tenant fails to pay any Rent for more than five (5) days after the same becomes due and payable; or

(b) if Tenant fails to pay, when the same becomes due and payable, any Taxes or charges other than Rent which Tenant is required to pay under this Lease, and such failure continues for more than ten (10) days after written notice of such non-payment has been given by Landlord to Tenant; or

(c) if Tenant fails to perform or comply with any other obligation of Tenant under this Lease, including without limitation the timely commencement or completion of the construction of the Improvements, and such failure shall continue for more than thirty (30) days after notice thereof has been given by Landlord to Tenant, and Tenant shall not, cure the same within such period; provided, that such period of thirty (30) days shall be extended by the number of additional days, if any, that the curing of such failure is delayed by reasons beyond the reasonable control of Tenant, financial inability and economic market conditions excepted;

(d) if Tenant shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or

similar relief under any present or future statute, law or regulation due to its bankrupt or insolvent financial status; or

(e) if, as a result of any proceeding against Tenant, a decree or order of a court or agency or supervisory authority having jurisdiction in the premises for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings of or relating to the Tenant or of or relating to all or substantially all of its property, or for the winding-up or liquidation of its affairs or for the supervision of the business or affairs of Tenant, shall have been entered, and such decree or order shall remain in force for a period of more than sixty (60) days; or

(f) if Tenant is in Default under the Development Agreement.

15.2 Remedies. Upon the occurrence of any Default, and after the expiration of any applicable cure periods, Landlord at Landlord's option, without notice or demand, may do any one or more of the following, in any order, successively or concurrently:

15.2.1 Continuation of Lease without Reentry. Landlord may continue the Lease in full force and effect, without reentry, and may recover from Tenant, in one or more actions, all Rent and other sums due or coming due from Tenant, plus any added costs, expenses or damages caused by or arising out of Tenant's Default, and without any obligation of Landlord to reenter, terminate or take other action.

15.2.2 Termination of Lease. Landlord may terminate this Lease by written notice to Tenant of Landlord's election to do so, whether or not Landlord has previously elected to continue the Lease in effect without reentry. Upon Landlord's notice of termination, (i) Landlord shall immediately convey fee simple title to the Premises to Tenant as contemplated by Section 2.3 above and (ii) Tenant immediately shall pay to Landlord the amount of all Rent and other sums due under this Lease to the date of termination.

15.2.3 Landlord's Expenses and Damages. Landlord, in every case, shall be entitled to recover from Tenant all of Landlord's expenses, costs and damages arising out of any Event of Default, including, but not limited to, clean-up, repair, alterations, refurbishing, refurbishing, custodial and security expenses, bookkeeping, and accounting costs, attorneys' fees (whether or not suit is brought), and costs and expenses of litigation.

15.3 Landlord Default. Upon any failure by Landlord to perform any of its obligations hereunder, and the continuance thereof for thirty (30) days following written notice thereof from Tenant (or such longer period of time, not to exceed 90 days as may be reasonably required for Landlord to cure such failure so long as Landlord commences such cure within said 30 days and thereafter diligently pursues such cure to completion), Tenant shall be entitled to exercise any and all remedies available to it in law and/or equity, provided, however, in no event shall Tenant be entitled to seek or recover consequential, lost profit, punitive or similar monetary damages. Tenant shall not be entitled to seek any claim for damages against Landlord after the date of Landlord's conveyance of fee simple title to the Premises to Tenant described in Sections 2.2 and 2.3 above.

ARTICLE 16 NOTICES

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or if mailed by United States certified or registered mail, return receipt requested, postage prepaid, as follows:

If to Landlord:

City Administrator
City of Yuma
One City Plaza
Yuma, AZ 85364-1436

With a copy to:

City Attorney
City of Yuma
One City Plaza
Yuma, AZ 85364-1436

If to Tenant:

Spencrazi, L.L.C.
c/o A.T. Pancrazi Real Estate Services, Inc.
350 W. 16th Street, Suite 332
Yuma, Arizona 85364
Attn: Thomas J. Pancrazi

With a copy to:

Garcia, Kinsey & Villarreal, P.L.C.
2620 W. 24th Street
Yuma, Arizona 85364
Attn: John S. Garcia, Esq.

or at such other place or to such other persons as any Party shall from time to time notify the other in writing as provided herein. The date of service of any communication hereunder shall be the date of personal delivery or seventy-two (72) hours after the postmark on the certified or registered mail, as the case may be.

ARTICLE 17 NO MERGER

In no event shall the leasehold interest, estate or rights of Tenant hereunder, or of any Leasehold Mortgagee, merge with any interest, estate or rights of Landlord in or to the Premises. Such leasehold interest, estate and rights of Tenant hereunder, and of any Leasehold Mortgagee,

shall be deemed to be separate and distinct from Landlord's interest, estate and rights in or to the Premises, notwithstanding that any such interests, estates or rights shall at any time be held by or vested in the same person, corporation or other entity.

ARTICLE 18 TRADE FIXTURES AND PERSONAL PROPERTY

18.1 Tenant's Property. All trade fixtures and personal property, including, without limitation, all furniture, furnishings and inventories now or hereafter maintained, installed or used in or about the Premises by Tenant or Tenant's subtenant or permitted assignees (the "**Trade Fixtures and Personal Property**") shall remain the property of Tenant, or such subtenant or permitted assignee, as applicable, after the expiration or earlier termination of this Lease.

18.2 Landlord's Lien Waiver. Upon request of Tenant or Tenant's permitted assignees or subtenants, Landlord shall execute and deliver any commercially reasonable consent or waiver form submitted by any vendors, landlords, chattel mortgagees or holders or owners of any Trade Fixtures and Personal Property (each a "**Third Party Claimant**") located or installed in the Premises by Tenant or any such permitted assignee or subtenant, provided that such consent or waiver form shall be limited to (i) Landlord's waiver in favor of such Third Party Claimant of any lien, claim, interest or other right superior to that of such Third Party Claimant in such Trade Fixtures and Personal Property; (ii) Landlord's acknowledgement that the Trade Fixtures and Personal Property covered by such consent or waiver form is personal property and is not to become part of the realty no matter how affixed thereto; and (iii) Landlord's acknowledgment that such personal property may be removed from the Premises by the applicable Third Party Claimant at any time, upon default by Tenant or the assignee or subtenant in accordance with the terms of such chattel mortgage or other similar documents, free and clear of any claim or lien of Landlord, subject to the Third Party Claimant at its cost repairing any damage and restoring the damaged Improvements to substantially the same condition as existed prior to the removal of such Trade Fixtures and Personal Property.

ARTICLE 19 ESTOPPEL CERTIFICATES

19.1 By Landlord. Landlord will execute, acknowledge and deliver to Tenant, subtenant or any permitted Leasehold Mortgagee, within twenty (20) days of Tenant's written request, a certificate stating that:

- (a) this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications);
- (b) the dates, if any, to which Rent and other sums payable hereunder have been paid; and
- (c) whether or not, to the knowledge of Landlord, there then exists any Default under this Lease (and if so, specifying the same).

Any such certificate may be relied upon by Tenant and any permitted prospective Leasehold Mortgagee or permitted prospective assignee of Tenant's interest under this Lease.

19.2 By Tenant. Tenant will execute, acknowledge and deliver to Landlord within twenty (20) days of Tenant's written request, a certificate stating that:

(a) this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications);

(b) the dates, if any, to which Rent and other sums payable hereunder have been paid; and

(c) whether or not, to the knowledge of Tenant, there then exists any Default under this Lease (and if so, specifying the same).

Any such certificate may be relied upon by Landlord.

ARTICLE 20 GENERAL PROVISIONS

20.1 Time of Essence. Time is of the essence of each and every provision of this Lease.

20.2 Landlord's Access to Premises. Landlord and its agents, at all reasonable times and upon notice to Tenant, shall have free and full access to the Premises for the purposes of examining or inspecting the condition thereof, determining if Tenant is performing the covenants and agreements of this Lease, and posting such notices as Landlord may desire to protect the rights of Landlord, provided the exercise of such rights does not materially interfere with Tenant's use and enjoyment of the Premises.

20.3 Governing Law; Choice of Forum. This Lease shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Lease shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Yuma (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 20.3.

20.4 Successors and Assigns. This Lease and all of the covenants and conditions set forth herein shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties hereto.

20.5 Waiver. No waiver by either Party of any breach of any of the terms, covenants or conditions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant or condition herein contained.

20.6 Limited Severability. Landlord and Tenant each believes that the execution, delivery and performance of this Lease is in compliance with all Applicable Laws. However, in the unlikely event that any phrase, clause, sentence, paragraph, section, article or other portion of this Lease is declared void or unenforceable (or is construed as requiring Landlord to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, Yuma City Code or Yuma City Charter), such provision shall be deemed severed from this Lease and this Lease shall otherwise remain in full force and effect; provided that this Lease shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed lease (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic or otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Lease, as reformed.

20.7 Exhibits; Recitals. All Exhibits referred to herein or attached hereto are incorporated herein by this reference as though fully set forth herein. The Recitals at the beginning of this Lease are hereby incorporated herein as covenants.

20.8 Entire Agreement; Amendments. This Lease and the Development Agreement constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof, and all other prior and contemporaneous agreements, representations, negotiations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein. No amendment or modification of this Lease shall be effective unless in writing executed and delivered by the Parties hereto. Any amendment of this Lease to change the use of the GPLET Improvements during the period of the GPLET abatement shall require adherence to the notification and other requirements of A.R.S. § 42-6209(C)(3).

20.9 Successor Laws. Each reference in this Agreement to a particular City Ordinance, Arizona statute or other Applicable Laws shall include any successor City ordinance, successor Arizona statute or successor Applicable Laws provided such successor City ordinance, successor Arizona statute or successor Applicable Laws are of general applicability.

20.10 Memorandum of Land and Improvements Lease. The Parties shall, concurrently with the execution of this Lease, complete, execute, acknowledge and record (at Tenant's expense) a Memorandum of Land and Improvements Lease in substantially the form attached hereto as Exhibit C.

20.11 Negation of Partnership. The relationship of the Parties is solely that of landlord and tenant, and under no circumstances shall the Parties become or be deemed partners or joint venturers.

20.12 Time Periods. If the time for the performance of any obligation under this Lease expires on a Friday, Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding day which is not a Friday, Saturday, Sunday or legal holiday.

20.13 Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Lease,

nor shall any such member, official or employee participate in any decision relating to this Lease which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This Lease is subject to cancellation pursuant to A.R.S. § 38-511.

{REMAINDER OF PAGE INTENTIONALLY LEFT BLANK}

IN WITNESS WHEREOF, the Parties hereto have executed this Lease on the date and year first written above.

LANDLORD:

CITY OF YUMA, an Arizona municipal corporation

By: _____
John D. Simonton
City Administrator

TENANT:

SPENCRAZI, L.L.C., an Arizona limited liability company

By: _____
Thomas J. Pancrazi
Manager

ATTEST

By: _____
Lynda L. Bushong
City Clerk

APPROVED AS TO FORM

By: _____
Richard W. Files
City Attorney

Exhibit A

Legal Description of Land

Parcel B, Center Pointe Commons Lot Tie/Lot Split, recorded in Book 34 of Plats, page 93, records of Yuma County, Arizona.

Exhibit B

Insurance Requirements

Tenant (the term “Tenant” as used in this Insurance Exhibit shall not include Tenant’s sub-tenants or sub-lessees) shall procure and maintain for the Term of the Lease insurance against claims for injury to persons or damage to property which may arise from or in connection with this Lease by Tenant and Tenant’s agents, representatives, employees, contractors.

The insurance requirements herein are minimum requirements for this Lease and in no way limit the indemnity covenants contained in this Lease. Landlord in no way warrants that the minimum limits contained herein are sufficient to protect Tenant from liabilities that might arise out of this Lease and Tenant is free to purchase such additional insurance as may be determined necessary. The limits set forth below shall be adjusted every five (5) years by the percentage of change in the Consumer Price Index (the “CPI”) determined in accordance with this paragraph. In determining the percentage of change in the CPI for the adjustment of the insurance limits for any year, the CPI for the month October in the preceding year, as shown in the column for “All Items” in the table entitled “All Urban Consumers” under the “United States City Averages” as published by the Bureau of Labor Statistics of the United States Department of Labor, shall be compared with the corresponding index number for the month of October one (1) year earlier.

A. Minimum Scope and Limits of Insurance: Tenant shall provide coverage at least as broad with limits of liability not less than those listed below.

Commercial General Liability – Occurrence Form

General Aggregate or Umbrella Policy	\$2,000,000
Products-Completed Operations Aggregate	\$1,000,000
Personal Advertising Injury	\$1,000,000
Each Occurrence	\$2,000,000
Fire Damage (Any one fire)	\$100,000
Medical Expenses (Any one person)	Optional

Automobile Liability – Any Auto or Owned, Hired and Non-Owned Vehicles

Combined Single Limit per Accident for Bodily Injury	\$1,000,000
------------------------------------------------------	-------------

Workers’ Compensation and Employer’s Liability

Workers’ Compensation	\$1,000,000
Employer’s Liability: Each Accident	\$500,000
Disease – Each Employee	\$500,000
Disease – Policy Limit	\$500,000

Liquor Liability

Combined Single Limit	\$1,000,000
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B. Self-Insured Retentions/Deductibles: Any self-insured retentions and deductibles greater than \$10,000 must be declared to and approved by Landlord.

C. Other Insurance Requirements: The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages: Landlord, its council members, officers, officials, agents, and employees are additional insureds with respect to liability arising out of the use and/or occupancy of the Premises subject to this Lease. Tenant's insurance shall contain broad form contractual liability coverage. Landlord, its officers, officials, agents, and employees shall be additional insureds to the full limits of liability purchased by Tenant even if those limits of liability are in excess of those required by this Lease. The commercial general liability additional insured endorsement will be at least as broad as the Insurance Services Office, Inc. (ISO) additional insured form B CG 20 10 1185. Tenant's insurance coverage shall be primary insurance with respect to Landlord, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by Landlord, its officers, officials, agents, and employees shall be in excess of the coverage provided by Tenant and shall not contribute to it. Tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by Tenant shall not be limited to the liability assumed under the indemnification provisions of this Lease. The policies shall contain a waiver of subrogation against Landlord, its officers, officials, agents, and employees for losses arising from Tenant's operations, occupancy and use of the Premises that are subject of this Lease.

2. Workers' Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against Landlord, its council members, officers, officials, agents, and employees for losses arising from Tenant's operations, occupancy, and use of the Premises that are the subject of this Lease.

D. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Lease shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to Landlord. Such notice shall be sent directly to Landlord's City Administrator, City of Yuma, One City Plaza, P. O. Box 13014, Yuma, AZ 85366-3014 and shall be sent by certified mail, return receipt requested.

E. Acceptability of Insurers: Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona and with an "A.M. Best" rating of not less than A- VII. Landlord in no way warrants that the above-required minimum insurer rating is sufficient to protect Tenant from potential insurer insolvency.

F. Verification of Coverage: Tenant shall furnish Landlord with original certificates of insurance (Association for Cooperative Operation, Research and Development (ACCORD) form or equivalent approved by Landlord) as required by this Lease. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance.

All certificates are to be received and approved by Landlord before the Lease Term commences. Each insurance policy required by this Lease must be in effect at or prior to the commencement of the Lease Term and must remain in effect for the duration of the Lease Term. Failure to maintain

the insurance policies as required by this Lease or to provide timely evidence of renewal will be considered a material breach of the Lease.

All certificates required by this Insurance Exhibit shall be sent directly to Landlord's City Administrator, City of Yuma, One City Plaza, P. O. Box 13014, Yuma, AZ 85366-3014. Landlord's City Department and the lease agreement number, and location description are to be noted on the certificate of insurance. Landlord reserves the right to require complete, certified copies of all insurance policies and endorsements required by this Insurance Exhibit at any time.

G. Approval: Any modification or variation from the insurance requirements in Insurance Exhibit must have prior approval from Landlord's City Administrator's Office whose decision shall be final. Such action will not require formal contract amendment but may be made by administrative action.

EXHIBIT C

MEMORANDUM OF LAND AND IMPROVEMENTS LEASE

DATE: _____, 202__ (“Execution Date”)

PARTIES: CITY OF YUMA, ARIZONA, an Arizona municipal corporation (“Landlord”)
SPENCRAZI, L.L.C., an Arizona limited liability company (“Tenant”)

RECITALS:

A. Landlord and Tenant are parties to that certain Spencrazi, L.L.C. Parcel B Land and Improvements Lease (“**Lease**”), dated as of _____, 202__, for the lease of certain land described in **Exhibit A** attached hereto and made a part hereof, together with all building(s) and other improvements now or hereafter constructed thereon, along with fixtures, furnishings and equipment therein, together with all rights and privileges appurtenant thereto and all future additions thereto or alterations and replacements thereof (collectively, the “**Premises**”).

B. This Memorandum of Land and Improvements Lease (“**Memorandum**”) is now executed and entered into for the purpose of recording the same and thereby giving notice of the Lease and this Memorandum.

COVENANTS:

For valuable consideration, receipt of which is hereby acknowledged, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, upon all of the terms, covenants and provisions contained in the Lease and in this Memorandum, including without limitation the following:

1. **Term.** The term of the Lease and this Memorandum (the “**Term**” or “**Lease Term**”) shall be for a period of eight (8) years, commencing on the date which is the later to occur of the date on which, (i) the Certificate of Occupancy for the Improvements is issued by the City for Improvements which are subject to the government property lease excise tax under A.R.S. § 42-6201 through § 42-6210; and (ii) fee title to the Premises is conveyed from Tenant to the Landlord (the “**Commencement Date**”), and ending at midnight on eighth (8th) anniversary of the Commencement Date, subject to the terms and conditions set forth in this Lease which may permit or provide for an earlier termination.

2. **Rent.** Tenant shall pay to Landlord rents and other amounts as set forth in the Lease.

3. **Right to New Lease.** In the event of termination of the Lease for any reason (including but not limited to any Default by Tenant), Landlord, if requested by Bubba’s Holdings or any Leasehold Mortgagee, will enter into a new lease of the Premises with Bubba’s Holdings

or the most senior Leasehold Mortgagee requesting a new lease, which new lease shall commence as of the date of termination of the Lease and shall run for the remainder of the original Term of the Lease, at the same Rent and upon the same terms, covenants and conditions contained in the Lease, in accordance with the terms and conditions set forth in Section 14.3 of the Lease.

3. **Lease.** All of the covenants, conditions, defined terms and provisions of the Lease are, by this reference to the Lease, incorporated herein and made a part hereof, the same as though expressly set forth herein. If a conflict arises between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall prevail.

IN WITNESS WHEREOF, Landlord and Tenant have executed this instrument to be effective as of the day and year first written above.

TENANT:

SPENCRAZI, L.L.C., an Arizona limited liability company

By: _____
Thomas J. Pancrazi, Manager

LANDLORD:

CITY OF YUMA, ARIZONA, an Arizona municipal corporation

By: _____
John D. Simonton, City Administrator

ATTEST:

By: _____
Lynda L. Bushong, City Clerk

APPROVED AS TO FORM:

Richard Files, City Attorney

EXHIBIT A TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION OF PROPERTY

Parcel B, Center Pointe Commons Lot Tie/Lot Split, recorded in Book 34 of Plats, page 93, records of Yuma County, Arizona.

EXHIBIT D

FORM OF SPECIAL WARRANTY DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

City of Yuma
Attn: City Attorney
One City Plaza
Yuma, Arizona 85364

SPECIAL WARRANTY DEED

FOR THE CONSIDERATION of Ten Dollars (\$10.00), and other valuable consideration, Spencrazi, L.L.C., an Arizona limited liability company ("Grantor"), hereby conveys to the City of Yuma, an Arizona municipal corporation ("Grantee"), the real property ("Property") situated in Yuma County, Arizona, and more particularly described on Exhibit "A" attached hereto and made a part hereof, together with the building(s) and other improvements thereon, the fixtures, furnishings and equipment therein, and all rights and privileges appurtenant thereto but excluding, and reserving unto Grantor, all right, title, and interest of Grantor in and to that certain Ground Lease Agreement dated April 8, 2024, the First Amendment to Ground Lease Agreement dated September 23, 2024, and the Second Amendment to Ground Lease dated February 10, 2025, by and between Grantor, as Landlord, and Bubba's Holdings, LLC, a Kentucky limited liability company, as successor-in-interest to Texas Roadhouse, Inc., a Delaware corporation, as Tenant.

SUBJECT to current taxes and assessments, reservations in patents, all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record and to all matters which an accurate survey or inspection of the Property would disclose.

PROVIDED, that water rights, if any, appurtenant to the Property are excluded from the coverage of the warranties contained herein, and Grantor hereby quitclaims to Grantee all of the Grantor's right, title and interest in and to such water rights, if any, appurtenant to the Property.

And Grantor hereby binds itself and its successors to warrant and defend the title, as against all acts of Grantor herein and none other, subject to the matters above set forth.

Dated this _____ day of _____, 202__.

GRANTOR:

SPENCRAZI, L.L.C., an Arizona
limited liability company

By: _____
Thomas J. Pancrazi, Manager

STATE OF ARIZONA)
) ss.
County of Yuma)

On this, the _____ day of _____, 202__, before me, the undersigned Notary Public, personally appeared Thomas J. Pancrazi, who acknowledges himself to be the Manager of Spencrazi, L.L.C., an Arizona limited liability company, who acknowledged to me that he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

Notary Public

EXHIBIT A TO SPECIAL WARRANTY DEED

LEGAL DESCRIPTION OF PROPERTY

Parcel B, Center Pointe Commons Lot Tie/Lot Split, recorded in Book 34 of Plats, page 93, records of Yuma County, Arizona.



Economic and Real Estate Consulting

MEMORANDUM

To: Jenn Reichelt
City of Yuma

From: Jill Stevenson
Elliott D. Pollack & Company

Date: February 3, 2025

Re: Economic and Fiscal Impact of the Proposed Bubba's 33, Yuma, Arizona

Elliott D. Pollack & Company has been retained by the City of Yuma to perform an economic and fiscal impact analysis of the construction activity and ongoing operations of a proposed sports bar and restaurant, Bubba's 33, to be located on the southwest corner of 16th Street and 4th Avenue in Yuma, Arizona. The project plan calls for a 7,743 square-foot Bubba's 33 sports bar and restaurant and 148 parking stalls.

The property is currently located within the General Commercial (B-2) District and the Central Business District and Yuma North End—16th Street and 4th Avenue Redevelopment Area. The development agreement and lease will be in accordance with the Arizona Revised Statutes 42-6209 relating to the proposed use and abatement of the Government Property Lease Excise Tax (GPLET).

This economic and fiscal impact analysis focuses on the impacts derived from (a) the new construction activity, and (b) ongoing operations at the site that will occur annually. Economic impact analysis examines the regional implications of an activity in terms of three basic measures: output, earnings, and employment. Fiscal impact analysis evaluates the public revenues created by a particular activity. In a fiscal impact analysis, the primary revenue sources of a governing entity are analyzed to determine how the activity may financially affect them. ***Our report does not address the financial or market feasibility of the project, nor does it address costs associated with providing city services beyond the agreed upon incentives.***

Assumptions of Analysis

The assumptions used to estimate the impacts of the construction of the proposed sports bar and restaurant have been developed from a variety of sources. The construction costs, building size, employment, average wage, lease rates and projected annual sales were provided by the City of Yuma. Data internal to the model, such as consumer spending and tax rates have been collected from various government and private sources including the U.S. Bureau of



Census, Bureau of Labor Statistics, Consumer Expenditure Survey, Arizona Department of Revenue, and the Arizona Tax Research Association. Additional assumptions regarding utility usage and local supply purchases are based on industry standards from various sources.

The proposed sports bar and restaurant will employ 62 people with average annual wages estimated to be \$32,830 per year, excluding benefits. Construction at the site will total \$4.2 million with additional equipment projected to cost \$1.3 million. On average, the restaurant will generate an estimated \$5.5 million in sales each year. The limited property value will be about \$250 per square foot. The following table contains a summary of the primary assumptions of the study.

Assumptions Bubba's 33 (2025 Dollars)	
<i>Project Description</i>	
Total building square feet	7,743
Parking stalls	148
Value of new construction	\$4,200,000
Estimated FF&E	\$1,300,000
<i>Operating Assumptions</i>	
Total Jobs (full & part time)	62
Average Annual Wage (excluding benefits)	\$32,830
Annual lease	\$135,000
Estimated annual sales	\$5,500,000
Projected annual utility usage	\$18,583
Locally purchased supplies	\$62,000
Projected limited property value of building per sf	\$250
<i>Various City of Yuma Tax Rates</i>	
Construction sales tax	1.7%
Retail transaction privilege tax	1.7%
Restaurant & bar sales total (including additional tax)	3.7%
Commercial Assessment Ratio (post GPLET)	15.0%
Property tax rate per \$100 assessed value (City)	2.1321
Sources: Elliott D. Pollack & Co., City of Yuma	

All dollar values presented in this report are stated in constant 2025 dollars. No adjustment has been made for inflation over time.

Economic Impact Methodology

Economic impact analysis examines the economic implications of an activity in terms of output, earnings, and employment. For this study, the analysis focuses on the jobs and corresponding



output and wages that are created during construction as well as the jobs and output that are created through the operations of the project.

The different types of economic impacts are known as direct, indirect, and induced, according to the manner in which the impacts are generated. For instance, direct employment consists of permanent jobs held by the project employees. Indirect employment is those jobs created by businesses that provide goods and services essential to the operation or construction of the project. These businesses range from manufacturers (who make goods) to wholesalers (who deliver goods) to janitorial firms (who clean the buildings). Finally, the spending of the wages and salaries of the direct and indirect employees on items such as food, housing, transportation and medical services creates induced employment in all sectors of the economy throughout the region. These secondary effects are captured in this study. Multipliers have been developed to estimate the indirect and induced impacts of various direct economic activities. The Implan Group LLC developed the multipliers used in this study.

Fiscal Impact Methodology

Fiscal impact analysis quantifies the public revenues associated with a particular economic activity. The primary revenue sources of local, county, and state governments (i.e. taxes) are analyzed to determine how an activity may affect the various jurisdictions. This report will evaluate the impact of the proposed sports bar and restaurant on the City of Yuma, Yuma County, and other governmental entities with ad valorem (property tax) or transaction privilege (sales tax) authority. The major sources of tax revenue generation for governmental entities are related to the construction of the project and ongoing impact from the operations such as construction sales tax, sales tax from direct revenues and retail spending, utility taxes, lease taxes, property taxes and State shared revenues.

Economic Impact of the Proposed Bubba's 33

The economic impact of the project development is outlined in the following table. The construction would generate an estimated 37 direct jobs and approximately \$1.9 million in direct wages during the construction phase. Another 9 indirect and induced jobs would be created in the local economy and \$566,000 in wages. Altogether, the project would create approximately 47 jobs during the construction period, generating \$2.4 million in wages and nearly \$6.1 million in economic activity.

Once construction is complete and the sports bar and restaurant is up and running, a total of 62 people will be directly employed (both full and part time) with total wages of an estimated \$2.0 million. Taking into account the ripple effect of the regional multipliers, approximately 78 permanent direct, indirect, and induced jobs are supported throughout the Yuma area as a result of the operations of the project. In total approximately \$2.9 million in wages are paid out annually to these employees and nearly \$9.0 million in economic activity is produced each year.



Bubba's 33 Economic Impact Summary (2025 Dollars)			
Construction			
	Jobs	Wages	Economic Output
Direct	37	\$1,881,000	\$4,200,000
Indirect	3	\$216,000	\$689,000
Induced	6	\$350,000	\$1,173,000
Total	47	\$2,447,000	\$6,062,000
Operations (annual at buildout)			
	Jobs	Wages	Economic Output
Direct	62	\$2,035,491	\$6,039,983
Indirect	8	\$476,000	\$1,532,000
Induced	8	\$417,000	\$1,398,000
Total	78	\$2,928,491	\$8,969,983
Sources: Implan Group, LLC; Elliott D. Pollack & Co., City of Yuma			

Fiscal Impact of the Proposed Bubba's 33

The construction and operations associated with the sports bar and restaurant also creates tax revenues for the City of Yuma. Revenues have been defined in this analysis as either primary or secondary, depending on their source and how the dollars flow through the economy into tax accounts. For instance, some revenues, such as construction sales taxes, are straightforward calculations based on the cost of construction. These revenues are described in this study as direct revenues and include retail sales taxes, property taxes and lease taxes. Secondary revenues, on the other hand, flow from the wages of those direct, indirect and induced employees who are supported by the project. Revenue projections are based on typical wages of the employees working in the project, their spending patterns, and projections of where they might live.

The following table outlines the fiscal impact of the project on the City of Yuma during construction and over 10 years of operations (stated in 2025 dollars without an inflation factor). Approximately \$105,900 is estimated to be generated during the construction. This includes \$68,500 in direct City construction sales taxes and taxes collected on local equipment purchases, along with nearly \$37,400 in secondary tax revenues generated by state shared revenues and the construction employees. Additional revenues would likely be generated in terms of permit and fees and impact fees, not included in this analysis.

Annual operations of the sports bar and restaurant generate \$2.8 million over the 10 years for the City of Yuma. This includes an average of roughly \$208,540 in primary tax collections such as direct sales at the restaurant, taxes paid on local supply purchases, utility taxes and personal property taxes. Excluded from this amount are real property taxes during the first eight years if a



proposed GPLET agreement is finalized. Indeed, after the 8-year abatement, real property taxes to the city will be approximately \$6,200 on average each year (in 2025 dollars).

In addition to the revenues generated for the City of Yuma, nearly \$41,080 is generated annually for local school districts. This includes both the impact of direct property taxes at the proposed site (in years 9 and 10 – after the abatement) as well as additional annual taxes that will be generated by the employees on homes they occupy.

In total, during the construction period and over the 10 years of operations, the proposed sports bar and restaurant is expected to generate \$2.9 million in tax revenue for the City of Yuma and \$410,800 for school districts. A detailed table by year and category is provided on the following page. All figures are in 2025 dollars, no inflation has been added to the calculations.

Not included in the following table (that provides the taxes to be collected by the City of Yuma and its local school districts) are the taxes that would be collected by the State of Arizona, Yuma County and its special districts.

The State would collect prime contracting tax (\$135,000), annual sales taxes from the sports bar and restaurant sales (\$272,000 per year), as well secondary taxes generated by employees totaling an estimated \$4.1 million over 10 years.

Yuma County would similarly collect prime contracting tax (\$30,400), as well as direct sales taxes collected from the restaurant (\$61,200 annually). Yuma County and its special districts would also collect property taxes in years 9 and 10 from the site as well as property taxes generated by the employees. The total for the County and these jurisdictions is estimated to be \$1.2 million over the ten-year impact period.



Bubba's 33**Fiscal Impact of City of Yuma**

(2025 Dollars)

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total 10 Years
Construction Impact											
Total Primary Construction Impact	\$68,500	--	--	--	--	--	--	--	--	--	\$68,500
Construction sales tax	\$46,400	--	--	--	--	--	--	--	--	--	\$46,400
Permit fees	N/A	--	--	--	--	--	--	--	--	--	--
Use tax	\$22,100	--	--	--	--	--	--	--	--	--	\$22,100
Secondary impact from const. employees	\$37,400	--	--	--	--	--	--	--	--	--	\$37,400
Employee spending sales tax	\$6,200	--	--	--	--	--	--	--	--	--	\$6,200
Residents property tax	\$11,500	--	--	--	--	--	--	--	--	--	\$11,500
State shared sales tax	\$12,400	--	--	--	--	--	--	--	--	--	\$12,400
State shared income tax	\$4,300	--	--	--	--	--	--	--	--	--	\$4,300
State shared vlt	\$800	--	--	--	--	--	--	--	--	--	\$800
State shared hurf	\$2,200	--	--	--	--	--	--	--	--	--	\$2,200
Total Impact from construction	\$105,900	--	--	--	--	--	--	--	--	--	\$105,900
Operations Impact											
Total Primary Operations Impact	\$207,300	\$207,300	\$207,300	\$207,300	\$207,300	\$207,300	\$207,300	\$207,300	\$213,500	\$213,500	\$2,085,400
Direct sales taxes on restaurant sales	\$203,500	\$203,500	\$203,500	\$203,500	\$203,500	\$203,500	\$203,500	\$203,500	\$203,500	\$203,500	\$2,035,000
Utility sales tax	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$3,000
Local taxable purchases sales tax	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$1,100	\$11,000
Lease tax	\$2,300	\$2,300	\$2,300	\$2,300	\$2,300	\$2,300	\$2,300	\$2,300	\$2,300	\$2,300	\$23,000
Personal property tax	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$100	\$1,000
Real property tax	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	\$6,200	\$6,200	\$12,400
Secondary impact from DIRECT employees	\$65,100	\$61,400	\$61,400	\$61,400	\$61,400	\$61,400	\$61,400	\$61,400	\$61,400	\$61,400	\$617,700
Employee spending sales tax	\$8,800	\$8,800	\$8,800	\$8,800	\$8,800	\$8,800	\$8,800	\$8,800	\$8,800	\$8,800	\$88,000
Residents property tax	\$15,200	\$15,200	\$15,200	\$15,200	\$15,200	\$15,200	\$15,200	\$15,200	\$15,200	\$15,200	\$152,000
State shared sales tax	\$32,500	\$28,800	\$28,800	\$28,800	\$28,800	\$28,800	\$28,800	\$28,800	\$28,800	\$28,800	\$291,700
State shared income tax	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$36,000
State shared vlt	\$1,400	\$1,400	\$1,400	\$1,400	\$1,400	\$1,400	\$1,400	\$1,400	\$1,400	\$1,400	\$14,000
State shared hurf	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600	\$36,000
Secondary impact from INDIRECT & INDUCED employees	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$9,500	\$95,000
Employee spending sales tax	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700	\$27,000
Residents property tax	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$3,800	\$38,000
State shared direct sales tax	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$2,000
State shared income tax	\$1,600	\$1,600	\$1,600	\$1,600	\$1,600	\$1,600	\$1,600	\$1,600	\$1,600	\$1,600	\$16,000
State shared vlt	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$3,000
State shared hurf	\$900	\$900	\$900	\$900	\$900	\$900	\$900	\$900	\$900	\$900	\$9,000
Secondary impact from operations employees	\$75,700	\$75,700	\$75,700	\$75,700	\$75,700	\$75,700	\$75,700	\$75,700	\$75,700	\$75,700	\$757,000
Employee spending sales tax	\$11,500	\$11,500	\$11,500	\$11,500	\$11,500	\$11,500	\$11,500	\$11,500	\$11,500	\$11,500	\$115,000
Residents property tax	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000	\$190,000
State shared direct sales tax	\$33,800	\$33,800	\$33,800	\$33,800	\$33,800	\$33,800	\$33,800	\$33,800	\$33,800	\$33,800	\$338,000
State shared income tax	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200	\$52,000
State shared vlt	\$1,700	\$1,700	\$1,700	\$1,700	\$1,700	\$1,700	\$1,700	\$1,700	\$1,700	\$1,700	\$17,000
State shared hurf	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500	\$45,000
Total Impact from operations	\$283,000	\$283,000	\$283,000	\$283,000	\$283,000	\$283,000	\$283,000	\$283,000	\$289,200	\$289,200	\$2,842,400
TOTAL CITY FISCAL IMPACT	\$388,900	\$283,000	\$283,000	\$283,000	\$283,000	\$283,000	\$283,000	\$283,000	\$289,200	\$289,200	\$2,948,300
Additional Impact on School Districts	\$58,500	\$36,500	\$36,500	\$36,500	\$36,500	\$36,500	\$36,500	\$36,500	\$48,400	\$48,400	\$410,800

NOTES:

All figures are intended only as a general guideline as to how the City could be impacted by the project(s).

The above figures are based on the current economic structure and tax rates of the City.

GPLET Payments

The proposed sports bar and restaurant may qualify for favorable tax treatment in the form of an eight-year property tax exemptions under the Government Property Lease Excise Tax (GPLET) program after deeding title to the property and improvements to the City of Yuma and entering into a government property lease with the City. The following table outlines the projected value of these GPLET payments by jurisdiction if the abatement is not awarded.

Without the proposed project, the vacant land property taxes that would be due annually would be approximately \$10,058 (Tax Year 2025) distributed according to the property tax rates for each jurisdiction.

Beyond the eight-year abatement period, taxes would revert back to taxes based on the net assessed value each year from the site. Not including inflation and using current property tax rates, the figures in the table also represent what would be collected by jurisdiction in years 9 and 10 after the abatement.

Bubba's 33 Estimated Property Taxes (2025 Dollars)		
Taxing Authority	Rate / \$100	Projected Annual Tax
Yuma County	2.4206	\$7,000
City of Yuma	2.1321	\$6,200
City of Yuma School Districts	4.0896	\$11,900
Fire District Assistance Tax	0.0045	\$10
Yuma County Library District	0.8815	\$2,600
Yuma County Flood Control District	0.2487	\$700
Arizona Western College	2.2954	\$6,700
S.T.E.D.Y	0.0500	\$100
Total	12.1224	\$35,210

Source: Yuma County Assessor, City of Yuma, EDPCo.

Summary

The proposed sports bar and restaurant will create annual economic and fiscal benefits for the City of Yuma. The economic benefits include local jobs and the ripple effect of these jobs throughout the economy. Indeed, the operations generate nearly \$9.0 million in economic activity each year in Yuma.

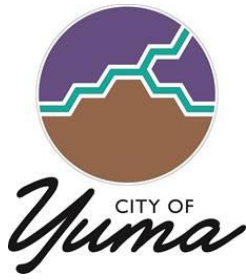
In terms of fiscal benefit, the site will generate an estimated \$8.6 million in government revenues during construction and operations over the 10-year period. This includes about \$4.1 million for the State of Arizona, \$1.2 million for Yuma County and its special districts, \$2.9 million for the City of Yuma and approximately \$410,800 for local school districts.



Based on the above analysis, the economic and fiscal benefits derived from the proposed sports bar and restaurant will exceed the incentives being offered by the City.

Bubba's 33 Summary			
Economic Impact Summary			
Construction			
	Jobs	Wages	Economic Output
Direct	37	\$1,881,000	\$4,200,000
Indirect	3	\$216,000	\$689,000
Induced	6	\$350,000	\$1,173,000
Total	47	\$2,447,000	\$6,062,000
Operations (annual at buildout)			
	Jobs	Wages	Economic Output
Direct	62	\$2,035,491	\$6,039,983
Indirect	8	\$476,000	\$1,532,000
Induced	8	\$417,000	\$1,398,000
Total	78	\$2,928,491	\$8,969,983
Fiscal Impact (Total over ten years)			
	Construction / FF&E	Operations	Total
State	\$285,100	\$3,792,000	\$4,077,100
County	\$58,100	\$1,154,600	\$1,212,700
City	\$105,900	\$2,842,400	\$2,948,300
Local school districts	--	\$410,800	\$410,800
Total	\$449,100	\$7,789,000	\$8,648,900
<p><u>1/</u> Figures at stabilized operating levels Sources: Elliott D. Pollack & Co., ACA</p>			





Date: May 13, 2025

Governing Bodies:

Yuma County Board of Supervisors
ATTN: County Administration
198 S. Main Street
Yuma, AZ 85364

Yuma Elementary School District
ATTN: Administration
450 W. 6th Street
Yuma, AZ 85364

Arizona Western College
ATTN: Administration
PO Box 929
Yuma, AZ 85366

Crane Elementary School District
ATTN: Administration
4250 W. 16th Street
Yuma, AZ 85364

Yuma Union High School District
ATTN: Administration
3150 S. Avenue A
Yuma, AZ 85364

Attention:

This letter is to provide you with the statutory 60-day notice that the City of Yuma City Council will meet at their regularly scheduled meeting on Wednesday, July 16, 2025, to review and adopt a Land and Improvements Lease Agreement (Lease) that the City of Yuma is negotiating with the following named Developer/Prime Lessee:

Name of Developer/Prime Lessee: SpenCrazi, L.L.C.

Address of Developer/Prime Lessee: Lane S. Heida, Manager
SpenCrazi, L.L.C.
c/o The Spencer Companies
190 S. Madison Avenue, Suite 2
Yuma, AZ. 85364

Project/Premises Location: Southwest Corner of 16th Street and
4th Avenue

Proposed Development/Use: Retail and future Restaurant

Proposed Length of Term(s):

Lease Agreement - Term 8 years

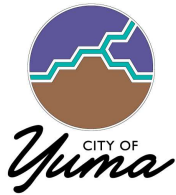
Pursuant to Arizona Revised Statutes, A.R.S. § 42-6201, *et seq.*, as part of this proposed Restaurant Project, the City of Yuma and the Developer/Lessee, collectively (the "Parties"), will enter into the Lease which will permit abatement of the Government Property Lease Excise Tax ("GPLET"). Pursuant to A.R.S. § 42-6209(C), the City must notify you as the governing bodies of the county and any school districts prior to taking action on the proposed lease at least sixty (60) days before the City Council considers approval of the Lease.

Additionally, A.R.S. § 42-6209(C)(2) requires that the City of Yuma determine that, within the term of the Lease, the economic and fiscal benefit to this state, county and the city in which the project is located will exceed the benefits received by the Developer/Prime Lessee as a result of the Lease on the basis of an estimate of those benefits prepared by an independent third party in a manner and method acceptable to the City Council. The estimate must be provided to the governing bodies of the county and any school district in which the project is located at least thirty (30) days before the vote of the City Council. Accordingly, please find attached the economic and fiscal benefit analysis for the Restaurant Project.

Should you have any further questions concerning the provisions of this notice or need further clarification or information about this proposed project, please contact: Cynthia Blot, Economic Development Manager, City of Yuma at (928) 373-5011 or by email at: Cynthia.Blot@YumaAZ.gov.

Enclosure:

Economic and Fiscal Impact of a Proposed Fast-Food Restaurant, Yuma, Arizona



City of Yuma

City Council Report

File #: O2025-025

Agenda Date: 7/2/2025

Agenda #: 1.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
Planning & Neighborhood Svc	<input type="checkbox"/> Safe & Prosperous	<input type="checkbox"/> Motion
	<input type="checkbox"/> Active & Appealing	<input type="checkbox"/> Resolution
	<input checked="" type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
DIVISION:	<input type="checkbox"/> Connected & Engaged	<input checked="" type="checkbox"/> Ordinance - Adoption
Community Planning	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Annexation Area No. ANEX-43789-2025 Vision Assets

SUMMARY RECOMMENDATION:

Authorize annexation of properties located at the northeast corner of W. 27th Street and S. 21st Drive. (ANEX-43789-2025) (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

STRATEGIC OUTCOME:

The approval of this annexation will provide access to City resources and services. The annexation assists in furthering City Council's strategic outcome of Respected and Responsible.

REPORT:

The annexation area consists of four parcels of real property and the adjacent 27th Street, 20th Avenue, and 21st Drive right-of-way. The annexation area totals approximately 4.46 acres. The properties are owned respectively by:

1. Vision Assets, LLC parcel 694-14-005
2. Cynthia Ann Ray Sub-Trust, parcel 694-14-005
3. Ignacio R. Covarrubias, parcel 694-14-004
4. Adrian Covarrubias, parcel 694-14-003.

The City of Yuma received a request from Vision Assets, LLC, the larger easternmost parcel, to annex their property with the intent to rezone and subdivide within the City and develop single-family homes. In response, the City has initiated this annexation process and included the three adjacent parcels as well. Two of the parcels, APN 694-14-003 and 694-14-004, are the subject of a Pre-annexation Development Agreement adopted by City Council on July 18, 2001 (R2001-50) and January 4, 2006 (R2006-02). The property owners requested and have connected to City utility services. The Pre-annexation Development Agreement identifies specific responsibilities of both the property owners and the City of Yuma. A responsibility of the property owners is to agree to annexation at such time as the City of Yuma may initiate that action. The fourth parcel, APN 694-14-005, is being included as part of this annexation effort to provide a seamless annexation boundary. Future development of this undeveloped parcel will require connection to City utilities. Annexing this property now will minimize any delays when development does move forward. The annexation area is designated on the annexation map attached to the proposed ordinance.

In accordance with Arizona Revised Statutes § 9-471, a blank petition with a legal description and map of the area to be annexed was filed with the County Recorder on May 6, 2025. There was a 30-day waiting period after recording the map and petition with the County Recorder before signatures on the annexation petition could be obtained. During the waiting period, a public hearing for annexation ANEX-43789-2025 was held by the City Council on June 4, 2025, to comply with the state annexation law. All appropriate and necessary notice and posting requirements have been met.

After the 30-day waiting period and the public hearing, the following procedures were followed:

1. The signatures of the property owners were obtained such that at least one-half of the value of the real and personal property is represented and such that more than one-half of the parcel owners are represented. No modifications, including increases or decreases to the territory to be annexed, were made after the first property owners in the area signed the annexation petition.
2. Within one year after the last day of the 30-day waiting period, these completed petitions were received and recorded with the office of the Yuma County Recorder.

Following the recording of the completed petitions, an ordinance must be adopted by the City Council changing the City boundaries to include the annexation area.

The ordinance also identifies the zoning district to be placed on the property within the annexation area as Residence-Manufactured Housing (R-MH-20) District. This zoning designation matches the current County Zoning on the properties (MHS-20) and is in conformance with the City of Yuma General Plan, which identifies the land use of the property as Low Density Residential. This City Council action introduces the annexation ordinance prior to adoption.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			

FISCAL IMPACT STATEMENT:

Not applicable

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- ☐ Department
☐ City Clerk's Office

- ☐ Document to be recorded
☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 06/26/2025
Reviewed by City Attorney: Richard W. Files	Date: 06/25/2025

ANNEXATION PETITION ANEX-43789-2025
Vision Assets Annexation

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF YUMA, ARIZONA:

We, the undersigned, owners of real and personal property, being the real property hereinafter described and all personal property that we may own in the area to be annexed, request the City of Yuma to annex our property, said property being located in a territory contiguous to the City of Yuma, Arizona, and being located within the following described area:

A portion of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of Section 5, Township 9 South, Range 23 West, of the Gila and Salt River Base and Meridian, Yuma County, Arizona, being more particularly described as follows, Beginning at the Northwest Corner of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of said Section 5 also being the True Point of Beginning, Thence Southerly along the West line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 657.32' feet to a point being the Southwest Corner of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter, Thence Easterly along the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 25.00' feet to a point, Thence Northerly along a line a distance of 20.00' feet to a point, Thence Easterly along a line being parallel to and 20.00' feet North of the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 470.28' feet to a point, Thence Southerly along a line a distance of 20.00' feet to a point on the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter, Thence Easterly along the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 20.00' feet to a point, Thence Northerly along a line being located 145.00' feet West and parallel to the East line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 640.00' feet to a point, Thence Westerly along a line a distance of 20.00' feet to a point, Thence Northerly along a line a distance of 20.00' feet to a point on the North line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter, Thence Westerly along the North line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 165.00' feet to a point, Thence Southerly along a line a distance of 454.00' feet to a point being 206.00' feet North of the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter, Thence Westerly along a line a distance of 274.61' feet to a point being 55.69' feet East of the West line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter, Thence Northerly along a concave curve to the West having a radius of 1038.00' feet and a curve length of 77.02' feet to a point on a reverse curve, Thence Northerly along a concave curve to the East having a radius of 962.00' feet and a curve length of 170.74' feet to a point being 28.03' feet East of the West line of the Northwest Quarter of the Southeast Quarter of

the Northwest Quarter, Thence Westerly a distance of 3.03' feet to a point, Thence Northerly along a line being 25.000' feet East of the West line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 206.00' feet to a point, Thence Westerly along the North line of the Northwest Quarter of the Northeast Quarter of the Northwest Quarter a distance of 25.00' feet to a point on the Northwest Corner of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of said Section 5 also being the True Point of Beginning.

Containing 4.46 acres more or less.

In addition to the above description, any and all county rights-of-way and roadways with no taxable value that are within or contiguous to the exterior boundaries of the proposed annexation are part of the territory proposed to be annexed and will be included in any ordinance of annexation adopted as a result of this petition.

The City Council may determine the exact boundary of said territory to be annexed; provided, however, that said annexation area lies wholly within the above described area, and provided further, that the provisions of Section 9-471, Arizona Revised Statutes, are fully observed and complied with.

DATE	SIGNATURE	MAILING ADDRESS	PARCEL ID/ LEGAL DESCRIPTION

(Legal description can be Lot/Block/Subdivision; Book/Map/Parcel; or Metes and Bounds)

Print Name of Signatory above: _____

Property Owner

ORDINANCE NO. O2025-025

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, ANNEXING TO THE CITY OF YUMA, A PORTION OF SECTION 5, TOWNSHIP 9 SOUTH, RANGE 23 WEST OF THE GILA AND SALT RIVER BASE & MERIDIAN, YUMA COUNTY, ARIZONA, AND AMENDING CHAPTER 154 OF THE YUMA CITY CODE, AS AMENDED, DESIGNATING THE ZONING OF CERTAIN PROPERTY TO THE RESIDENCE-MANUFACTURED HOUSING (R-MH-20) ZONING DISTRICT, AND AMENDING THE ZONING MAP TO CONFORM THERETO, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES AS AMENDED

WHEREAS, a petition in writing ("Petition"), accompanied by a map or plot of said property, having been filed and presented to the Mayor and City Council of the City of Yuma, Arizona, signed by the owners of more than one-half in value of the real and personal property and more than one-half of the persons owning real and personal property as would be subject to taxation by the City of Yuma in the event of annexation of the territory and land hereinafter described as shown by the last assessment of said property, which said territory is contiguous to the City of Yuma and not now embraced within its corporate limits, asking that the property more particularly hereinafter described be annexed to the City of Yuma, and to extend and increase the corporate limits of the City of Yuma so as to embrace the same; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona, are desirous of complying with the Petition and extending and increasing the corporate limits of the City of Yuma to include said territory; and,

WHEREAS, the Petition sets forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed to the City of Yuma and had attached thereto at all times an accurate map of the territory desired to be annexed; and,

WHEREAS, no alterations increasing or reducing the territory sought to be annexed have been made after the Petition had been signed by any owner of real and personal property in such territory; and,

WHEREAS, the provisions of A.R.S. § 9-471, as amended, have been fully observed; and,

WHEREAS, proper and sufficient certification and proof of the foregoing facts are now on file in the office of City Clerk of the City of Yuma, Arizona, together with a true and correct copy of the original Petition referred to herein, which is on file in the office of the Yuma County Recorder; and,

WHEREAS, upon annexation the initial designation for zoning of the property described in Section 2 shall be Residence-Manufactured Housing (R-MH-20) District, as provided for in A.R.S. § 9-471, and amendments thereto; and,

WHEREAS, the City Council has considered the probable impact on the cost to construct housing for sale or rent that may occur as a result of this rezoning, and finds that the recommendation complies with and conforms to the goals and objectives of the Yuma General Plan, as amended.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma, as follows:

SECTION 1: That the following described territory be, and the same hereby is, annexed to the City of Yuma, and that the present corporate limits be, and the same hereby are, extended and increased to include the following described territory contiguous to the present City of Yuma corporate limits, to wit:

A portion of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of Section 5, Township 9 South, Range 23 West, of the Gila and Salt River Base and Meridian, Yuma County, Arizona, being more particularly described as follows,

Beginning at the Northwest Corner of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of said Section 5 also being the True Point of Beginning,

Thence Southerly along the West line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 657.32' feet to a point being the Southwest Corner of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter,

Thence Easterly along the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 25.00' feet to a point,

Thence Northerly along a line a distance of 20.00' feet to a point,

Thence Easterly along a line being parallel to and 20.00' feet North of the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 470.28' feet to a point,

Thence Southerly along a line a distance of 20.00' feet to a point on the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter,

Thence Easterly along the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 20.00' feet to a point,

Thence Northerly along a line being located 145.00' feet West and parallel to the East line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 640.00' to a point,

Thence Westerly along a line a distance of 20.00' feet to a point,

Thence Northerly along a line a distance of 20.00' feet to a point on the North line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter,

Thence Westerly along the North line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 165.00' feet to a point,

Thence Southerly along a line a distance of 454.00' feet to a point being 206.00' feet North of the South line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter,

Thence Westerly along a line a distance of 274.61' feet to a point being 55.69' feet East of the West line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter,

Thence Northerly along a concave curve to the West having a radius of 1038.00' feet and a curve length of 77.02' feet to a point on a reverse curve,

Thence Northerly along a concave curve to the East having a radius of 962.00' feet and a curve length of 170.74' feet to a point being 28.03' feet East of the West line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter,

Thence Westerly a distance of 3.03' feet to a point,

Thence Northerly along a line being 25.000' feet East of the West line of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter a distance of 206.00' feet to a point,

Thence Westerly along the North line of the Northwest Quarter of the Northeast Quarter of the Northwest Quarter a distance of 25.00' feet to a point on the Northwest Corner of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of said Section 5 also being the True Point of Beginning.

Containing 4.46 acres more or less.

SECTION 2: That, pursuant to the provisions of §9-471(L), Arizona Revised Statutes, upon this Ordinance becoming final under the provisions of §9-471(D), Arizona Revised Statutes, the municipal zoning designation for the territory described in Section 1, shall be the Residence-Manufactured Housing (R-MH-20) District of the City of Yuma Zoning Ordinance.

SECTION 3: That a copy of this ordinance, together with the attached map of the territory hereby annexed to the City of Yuma, certified by the Mayor of the City of Yuma, be forthwith filed and recorded in the office of the County Recorder of Yuma County, Arizona.

Adopted this _____ day of _____, 2025.

APPROVED:

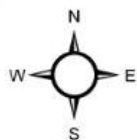
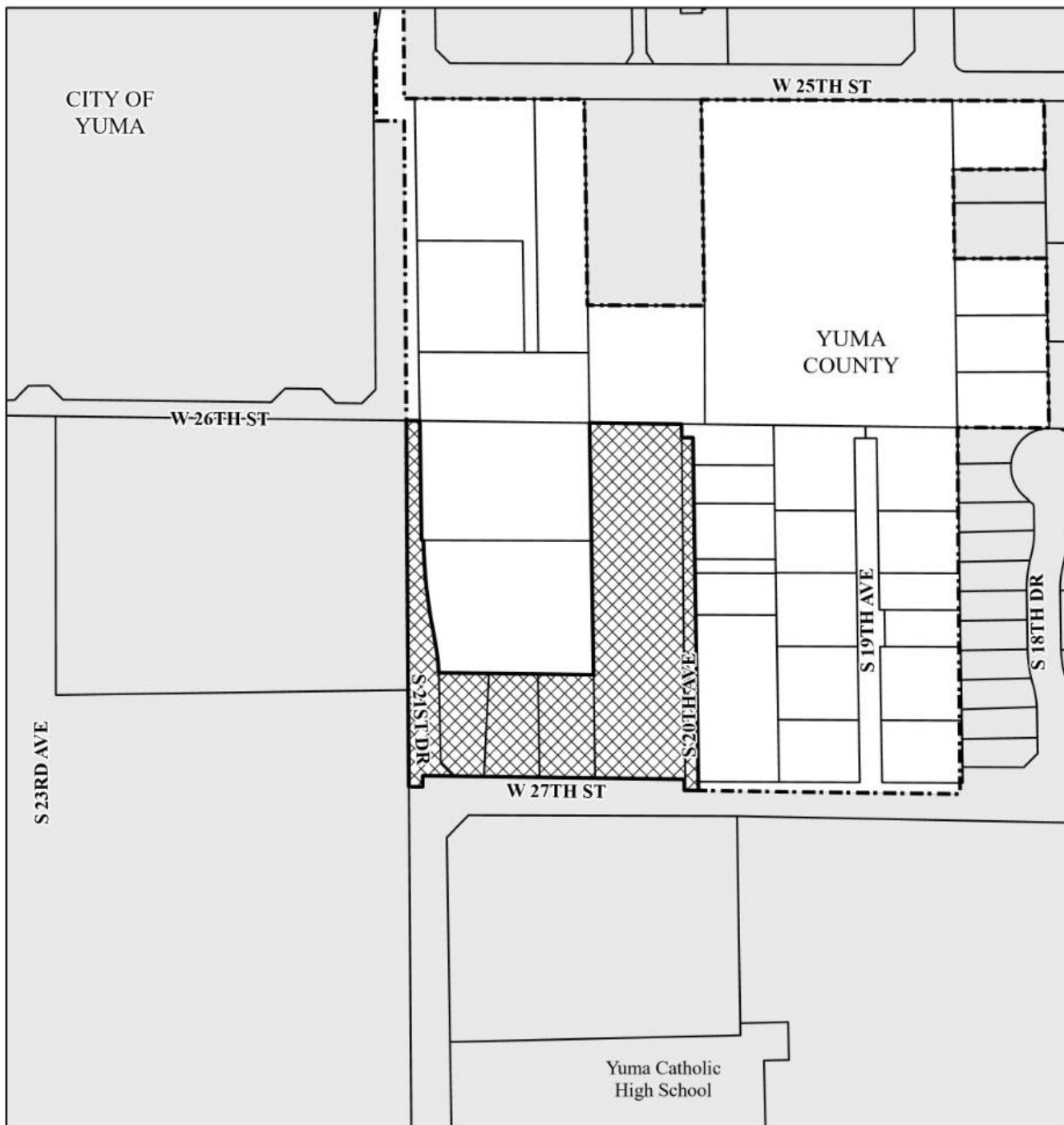
Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:



Richard W. Files
City Attorney



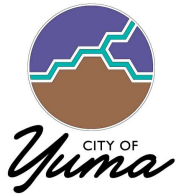
Annexation Map Produced Pursuant to A.R.S. §9-471

NOT TO SCALE
COMMUNITY PLANNING AND
NEIGHBORHOOD SERVICES GIS

City of Yuma, Arizona
Annexation Area No. 43789-2025

 City of Yuma
 Annexation Area

The City of Yuma shall maintain the rights-of-way and roadways that are within the annexation boundaries. Yuma County shall maintain the rights-of-way and roadways that are contiguous to and outside the annexation boundaries.



City of Yuma

City Council Report

File #: O2025-027

Agenda Date: 7/2/2025

Agenda #: 2.

DEPARTMENT:	STRATEGIC OUTCOMES	ACTION
City Attorney	<input checked="" type="checkbox"/> Safe & Prosperous	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Active & Appealing	<input type="checkbox"/> Resolution
	<input type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Ordinance - Introduction
DIVISION:	<input type="checkbox"/> Connected & Engaged	<input checked="" type="checkbox"/> Ordinance - Adoption
Administration	<input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Public Hearing

TITLE:

Acquisition of Union Pacific Railroad Property

SUMMARY RECOMMENDATION:

Authorize the acquisition of approximately 14.32 acres of real property for future downtown redevelopment. (City Administrator) (Jay Simonton)

STRATEGIC OUTCOME:

This action supports City Council's Safe and Prosperous and Active and Appealing strategic outcomes.

REPORT:

The proposed ordinance authorizes the acquisition of approximately 14.32 acres of real property described through six legal descriptions and an attached location map between South Madison Avenue and Gila Street. The property is owned by Union Pacific Railroad which has agreed to sell the property to the City for one million, seven hundred and fifteen thousand dollars (\$1,715,000) or approximately \$2.75 per square foot.

If authorized for acquisition, the property will be identified for future redevelopment of the downtown area in support of the Yuma Downtown Innovation District.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 1,715,000	BUDGETED:	\$ 2,000,000.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 1,715,000			
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

Sufficient budget capacity is provided in the City Council approved FY 2026 Budget and FY 2026-2030 Capital Improvement Program.

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- ☐ Department
- ☐ City Clerk's Office
- ☐ Document to be recorded
- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 06/26/2025
Reviewed by City Attorney: Richard W. Files	Date: 06/25/2025

ORDINANCE NO. O2025-027

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA,
ARIZONA, AUTHORIZING THE ACQUISITION OF APPROXIMATELY
14.32 ACRES OF REAL PROPERTY BY PURCHASE AND
AUTHORIZING PAYMENT, TOGETHER WITH COSTS NECESSARY
FOR THE ACQUISITION**

WHEREAS, the City of Yuma (City) is authorized, pursuant to the City Charter, Article III, Section 2, to acquire real property and real property interests; and,

WHEREAS, the City has identified a need for the acquisition of 14.32 acres of real property located between Madison Avenue and Gila Street.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: As a matter of public necessity and public welfare, the real property approximately described and depicted in Exhibit A, attached and by this reference made a part of this ordinance, shall be acquired by the City of Yuma by purchase, as such acquisition is necessary for redevelopment and establishment of the Yuma Downtown Innovation District in the public interest and public benefit for the City of Yuma and City residents.

SECTION 2: The City Administrator is authorized and directed to acquire the described real property for the sum of \$1,715,000, in addition to any sums necessary to acquire the described property such as due diligence costs, customary and usual recording fees, escrow costs, and title insurance.

Adopted this _____ day of _____, 2025.

APPROVED:

Douglas J. Nicholls
Mayor

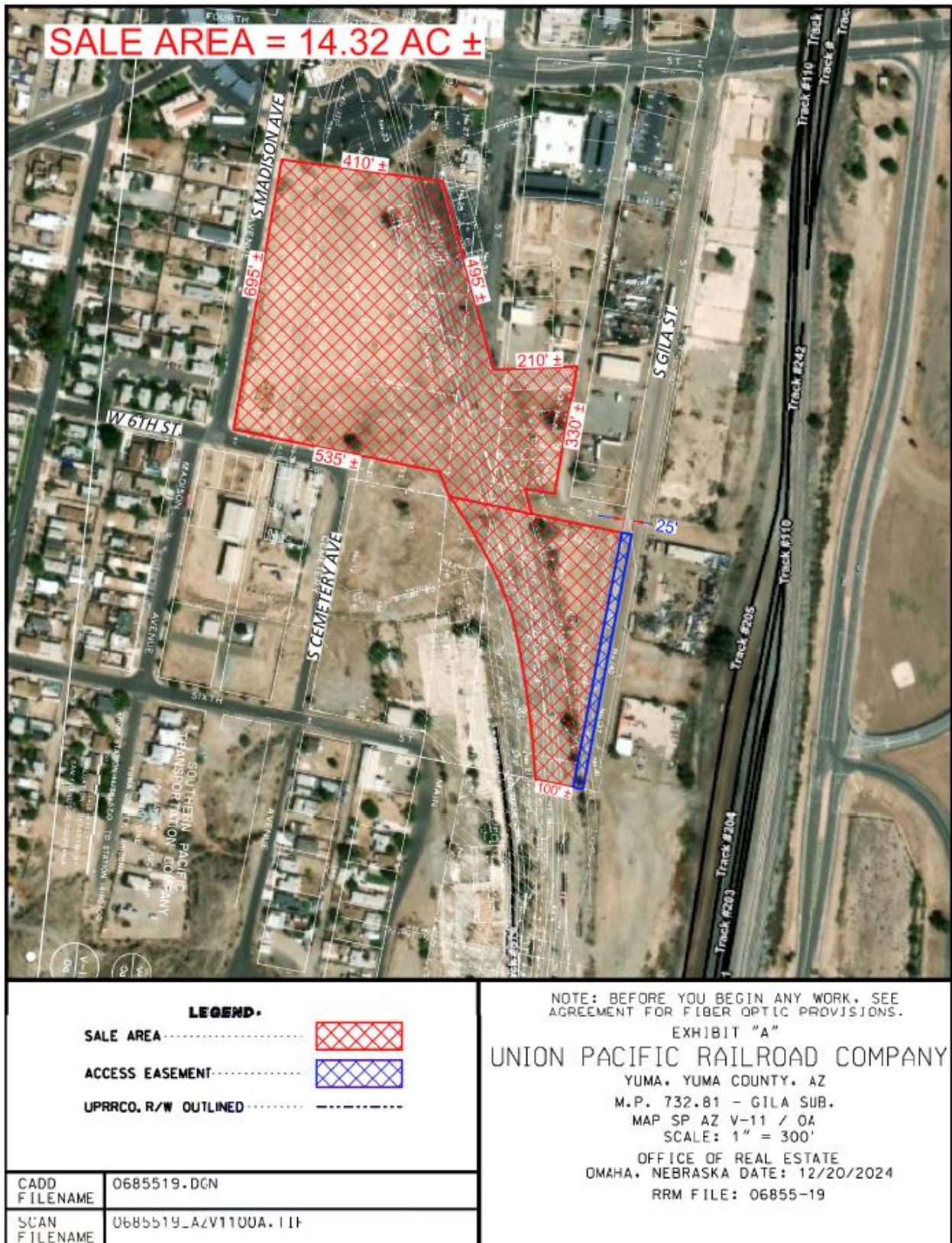
ATTESTED:

APPROVED AS TO FORM:

Lynda L. Bushong
City Clerk

Richard W. Files
City Attorney

EXHIBIT A
(14.32 Acres to be purchased from Union Pacific Railroad)



A portion of the East half of the Southeast quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$) of Fractional Section 21, and a portion of the West half of the West half of the Southwest quarter (W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$) of Fractional Section 22, all in Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, State of Arizona, also being a portion of Blocks 23, 24, and 139 of White's Official Survey of the Village of Yuma, dated April 4th, 1894, in the office of the Yuma County Recorder (YCR), Yuma County, Arizona, and more particularly described as follows:

Parcel 2 of the Union Pacific Railroad Historic Freight Depot Lot Split plat, dated 8/18/2005, Fee # 2005-36020, Recorded in Book 21 of Plats, Page 70, YCR;

AND

Lots 13, 14, 15, 16, and 17 all in Block 24 of said White's Official Survey of the Village of Yuma;

Except therefrom: any portions of the lots encompassed within Parcel 2 of the said Union Pacific Railroad Historic Freight Depot Lot Split plat;

AND

Commencing at the Southeast corner of Parcel 2 described in the Union Pacific Railroad Historic Depot Lot Split, dated 8/18/2005, Fee # 2005-36020, Recorded in Book 21 of Plats, Page 70, YCR, also being the Southeast corner of Parcel B in the Union Pacific Lot Tie / Lot Split & Street Dedication plat, dated 11/14/2002, Fee # 2002-32402, recorded in Book 18 of Plats, Pages 91 to 95, YCR, point being the True Point of Beginning;

Thence South 25°23'45" East along the East Union Pacific Railroad right-of-way line a distance of 33.32 feet to a point lying on the Centerline of the former 5th Street;

Thence North 89°36'58" West along the Centerline of 5th Street, a distance of 143.63 feet to the intersection of the Centerline of former Main Street;

Thence North 89°33'57" West along the Centerline of 5th Street, a distance of 84.21 feet to a point lying on the Western Union Pacific Railroad right-of-way line;

Thence North 47°42'49" West along the Western Union Pacific Railroad right-of-way line a distance of 44.92 feet to a point lying on the North line of 5th Street, also being the south line said Parcels 2 and B;

Thence South 89°33'57" East along the South line of said Parcels 2 and B, a distance of 59.31 feet, to a point that lay at the intersection of the west right-of-way line of the old Main Street and North right-of-way line of 5th Street;

Thence South $89^{\circ}35'23''$ East along the South line of said Parcels 2 and B, a distance of 110.57 feet to a point lying at the intersection of the Eastern former Main Street right-of-way line and the North right-of-way line of 5th Street;

Thence South $89^{\circ}36'58''$ East along the South line of said Parcels 2 and B, a distance of 76.91 feet to the True Point of Beginning;

AND

Commencing at the Southeast corner of Parcel 2 described in the Union Pacific Railroad Historic Depot Lot Split, dated 8/18/2005, Fee # 2005-36020, Recorded in Book 21 of Plats, Page 70, YCR, also being the Southeast corner of Parcel B in the Union Pacific Lot Tie / Lot Split & Street Dedication plat, dated 11/14/2002, Fee # 2002-32402, recorded in Book 18 of Plats, Pages 91 to 95, YCR;

Thence South $25^{\circ}23'45''$ East along the East Union Pacific right-of-way line a distance of 33.32 feet to a point lying on the Centerline of the former 5th Street, point also being the True Point of Beginning;

Thence North $89^{\circ}36'58''$ West along the Centerline of the former 5th Street a distance of 143.63 feet to a point lying on the Center line of the former Main Street;

Thence North $89^{\circ}33'57''$ West along the Centerline of the former 5th Street, a distance of 84.21 feet to a point lying on the West right-of-way line of the Union Pacific Railroad;

Thence South $47^{\circ}42'49''$ East along the Western Union Pacific Railroad right-of-way, a distance of 29.64 feet to the beginning of a tangent curve concave Southwest, of radius 607.28 feet;

Thence Southeasterly along a tangent curve, concave southwest, of radius 607.28 feet, through a central angle of $10^{\circ}51'10''$, of length 115.03 feet, to a point;

Thence South $36^{\circ}49'02''$ East, a distance of 95.46 feet to a point lying on the East line of the former Main Street, also being the West line of Block 139 of said White's Official Survey of the Village of Yuma;

Thence North $05^{\circ}21'40''$ West along the East line of the former Main Street and West line of said block 139, a distance of 150.97 feet to the Northwest corner of said Block 139, also being the intersection of the East line of the Former Main Street and the South line of the Former 5th Street;

Thence South $89^{\circ}36'58''$ East along the South line of the former 5th Street, also being the North line of said Block 139, a distance of 98.77 feet to the East edge of the Union Pacific Railroad right-ofway line;

Thence North $23^{\circ}45'13''$ West along the East edge of the Union Pacific Railroad right-of-way line, a distance of 32.87 feet to the True Point of Beginning;

AND

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, all in Block 139 of said White's Official Survey of the

Village of Yuma, including previous 6th Street right-of-way located between Block 139 and Block 143 of said White's Official Survey of the Village of Yuma;

Except therefrom: any portions of the Lots and previous 6th Street right-of-way encompassed within Warranty Deed, dated 12/6/2023, recorded in FEE 2023-28007, Yuma County Records;

AND

Commencing at the Centerline intersection of 6th Street and Gila Street, marked with a 3 inch Diameter Brass Cap with LS 19329 as described on sheet 2, of the Union Pacific Lot Tie / Lot Split & Street Dedication, dated 11/14/2002, Fee # 2002-32402, recorded in Book 18 of Plats, Pages 91 to 95, also being the True Point of Beginning;

Thence N 23°45'13" W (calculated) along the Eastern right-of-way line of the Union Pacific Railroad Right-way, a distance of 89.84 feet (calculated) to a point lying on the West right-of-way line of Gila Street, also being the East line of Lot 6, Block 139 of said White's Official Survey of the Village of Yuma;

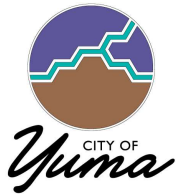
Thence S 00°49'58" E (recorded) along the West right-of-way line of Gila Street, and East line of said Lot 6, Block 139, a distance of 51.98 feet (calculated) to the Southwest corner of said Lot 6, Block 139;

Thence continuing S 00°49'58" E (calculated) along a projection of the West right-of-way line of Gila Street a distance of 60.00 feet (recorded) to the Northeast Corner of Lot 1, Block 143 of said White's Official Survey of the Village of Yuma;

Thence S 89°33'42" E (calculated) along a projection of the North line of said Block 143, a distance of 35.00 feet (calculated) to a point lying on the Centerline of Gila Street per said White's Official Survey of the Village of Yuma;

Thence N 00°49'58" W (calculated) along the Centerline of Gila Street, a distance of 30.00 feet (calculated) to the True Point of Beginning.

Legal Description Approved by City Engineer	<i>Andrew Mc Garvie</i>
Dated	



City of Yuma

City Council Report

File #: O2025-028

Agenda Date: 7/16/2025

Agenda #: 1.

	STRATEGIC OUTCOMES	ACTION
DEPARTMENT: Building Safety	<input checked="" type="checkbox"/> Safe & Prosperous <input type="checkbox"/> Active & Appealing <input checked="" type="checkbox"/> Respected & Responsible	<input type="checkbox"/> Motion <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance - Introduction
DIVISION: -	<input type="checkbox"/> Connected & Engaged <input type="checkbox"/> Unique & Creative	<input type="checkbox"/> Ordinance - Adoption <input type="checkbox"/> Public Hearing

TITLE:

Yuma City Code Text Amendment: Public Nuisances

SUMMARY RECOMMENDATION:

Amend Title 13, Chapter 134, Article 5 (Yuma City Code § 134-05) to include a defined procedure and standard for obtaining an Administrative Warrant allowing the City to inspect or remedy violations of the Property Maintenance Code on private property that pose a danger to life or property. (Building Safety) (Alyssa Linville/Randall Crist)

STRATEGIC OUTCOME:

This text amendment ensures the City is Safe and Prosperous by providing a mechanism to enter private property to inspect or remedy conditions that pose a danger to citizens' life or property. This text amendment furthers the City Council's strategic outcome of Respected and Responsible by utilizing a mechanism that provides judicial oversight to balance the interests of the City and involved property owners.

REPORT:

In July 2021, Mayor and Council approved an update to Yuma City Code § 134-05 that set forth the process and standards for obtaining an Administrative Warrant in situations in which a public nuisance was occurring on a property and the City could not contact the property owner. The adopted process and standards incorporated state and federal constitutional requirements and provide the ability to protect the public from public nuisances, while respecting the rights of property owners by requiring judicial oversight.

Since the 2021 update, Code Enforcement investigations have revealed the need to expand the ability to obtain Administrative Warrants. As currently written, the Code allows the City to obtain Administrative Warrants only in situations involving a public nuisance, as defined in Yuma City Code § 134.01 when contact with the property owner has been unsuccessful. However, the Code does not provide the ability to obtain an Administrative Warrant to access a property that poses a danger to human life or property when the property owner or tenant denies access or declines to remedy the danger, or is unable to be contacted, but no public nuisance is present such as violations of the Property Maintenance Code.

The following example illustrates the need for an expansion of this Code: A tenant complains to the City regarding the conditions of his or her dwelling. The City conducts an inspection and determines the property is not zoned for this rental space, the dwelling has electrical wiring out of compliance with the Property Maintenance Code, and there are insufficient exit points. In the event of a fire, there is a significant risk of the loss of life. After initial contact with the property owner, who disputes the violations, the tenant is no longer in

the dwelling and the property owner claims the issues have been remedied, but access is denied to the City. The City is unable to verify if the fire risks have been remedied, but, more importantly, the City is unable to verify if new tenants are residing in a known dangerous dwelling. Absent the ability to obtain an Administrative Warrant, the City is not able to re-enter the property unless there is an active emergency situation, such as a fire.

This text amendment also allows the City to enter private property, with judicial oversight, to prevent the loss of life or damage to property when a property owner is unavailable, uncooperative, or asserting privacy rights and there is probable cause to believe the property is in violation of the Property Maintenance Code. Failure to comply with an administrative warrant is most often a civil finding of contempt of court, though in an egregious circumstance, a judge could find criminal contempt.

FISCAL REQUIREMENTS:

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL	\$ 0.00		
To total; right click number & choose "Update Field"			

FISCAL IMPACT STATEMENT:

NONE

ADDITIONAL INFORMATION:

SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

- ☐ Department
- ☐ City Clerk's Office
- ☐ Document to be recorded
- ☐ Document to be codified

Acting City Administrator: John D. Simonton	Date: 07/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 07/03/2025

ORDINANCE NO. O2025-028

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING TITLE 13, CHAPTER 134, OF THE YUMA CITY CODE REGULATING NUISANCES WITHIN THE CITY

WHEREAS, violations of the Property Maintenance Code can create conditions that pose danger to life and property; and,

WHEREAS, citizens have the constitutional right to exclude the government from private property, unless the government obtains a court authorized warrant or there is an exigency; and,

WHEREAS, situations arise in which unsafe conditions raise concerns about the dangers to life or property, but the City is prohibited from accessing or inspecting the property by the owner or tenant; and,

WHEREAS, from time-to-time situations arise in which an inspection identifies unsafe conditions, but the property owner or tenant does not have the ability to, or refuses to remedy the danger; and,

WHEREAS, the current City Code lacks a process for entering private property when violations of the Property Maintenance Code pose a danger to life or property and the owner or tenant denies access or declines to remedy known dangers; and,

WHEREAS, an updated administrative warrant provision will provide the City with a pathway in exceptional circumstances where property conditions pose a danger to life or property, while also protecting citizens by requiring judicial oversight.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: Yuma City Code, Title 13, Chapter 134, “Nuisances” is amended as shown where strikethrough text represents deletions and bolded text represents additions:

§ 134-05 Administrative warrants

- (A) Any judge, upon proper oath or affirmation showing probable cause, may issue warrants for the purposes of conducting administrative inspections and the seizure, removal, destruction, or alteration of property ~~in order~~ to remedy a public nuisance. For purposes of the issuance of administrative warrants **pursuant to this section**, probable cause exists upon showing the existence of a public nuisance as defined in this chapter, in conjunction with evidence of reasonable attempts to notify and contact the ~~property~~ **property** owner regarding the public nuisance, sufficient to justify administrative inspection of the area, premises, building, structure, property, or conveyance and/or the seizure, removal, destruction, or alteration of property in order to remedy a public nuisance.
- (B) **Any judge, upon proper oath or affirmation showing probable cause that a property or structure or components, poses a danger to human life or health, or to other structures and property, may issue warrants for the purposes of**

conducting administrative inspections and/or the seizure, removal, destruction, repair or alteration of the property or structure or components. For purposes of the issuance of administrative warrants pursuant to this section, probable cause exists upon showing the existence of a condition in violation of the Property Maintenance Code, as adopted by Yuma City Code § 150-090, in conjunction with evidence of reasonable attempts to notify and contact the property owner regarding the danger, or reasonable attempts to gain compliance from the property owner, sufficient to justify administrative inspection of the area, premises, building, structure, property, or conveyance and/or the seizure, removal, destruction, repair, or alteration of the property or structure or components to remedy dangerous condition(s).

~~(B)~~(C) An administrative warrant shall issue only upon presentation of a written affidavit of a peace officer, code enforcement officer, or other city employee having personal knowledge of the facts alleged, sworn to a judge and establishing the grounds for issuing the warrant. If the judge is satisfied probable cause exists, such judge shall issue a written warrant identifying the area, premises, building, structure, property, or conveyance to be inspected, identify the property that may be seized, removed, destroyed, **repaired** or altered, and the purpose of the authorized actions.

~~(C)~~(D) Administrative warrants shall be served and executed during daylight hours, unless otherwise authorized in the warrant. A copy shall be provided to the property owner. In the event the property owner is not physically present, a copy shall be left at the property in a visible and safe location. In the event no location exists that is visible and will sufficiently protect the documentation from harm or destruction, a copy may be mailed to the owner's last known address. If property is seized, removed, destroyed, **repaired** or altered, a receipt or detail of the action taken shall be provided along with the copy of the warrant.

~~(D)~~(E) An administrative warrant issued pursuant to this section shall be executed within five days of issuance and returned within three days of its execution to the court unless, upon a showing of a need for additional time, the court orders otherwise. The return of the warrant shall be made promptly, accompanied by a written inventory of any property seized, removed, destroyed, **repaired** or altered.

~~(E)~~(F) Individuals executing an administrative warrant may damage property if necessary and reasonable to gain access to the area, premises, building, structure, property, or conveyance that is the subject of the warrant, if either of the following are true:

(1) After notice of the city employee's presence, purpose and authority, there is no response within a reasonable period of time.

(2) After notice of the city employee's presence, purpose and authority, entry is refused.

~~(F)~~(G) The affiant shall maintain a fully executed copy of the affidavit, warrant, return, and any receipts or inventory lists in compliance with state and court retention schedules.

(H) Failure to abide by an administrative warrant may result in a finding of civil contempt, or a criminal conviction for contempt or interfering with judicial proceedings, pursuant to Arizona Revised Statutes.

SECTION 2: Penalty.

- (A) A responsible party cited for a violation of any provision of this ordinance shall be subject to a civil sanction and shall be fined an amount not more than \$500 per day.
- (B) Each day a violation continues shall constitute a separate offense.
- (C) The City shall provide for payment by mail of fines imposed under this section.
- (D) The imposition of a penalty under the provisions of this section shall not waive any and all other legal remedies available to the city.

Adopted this _____ day of _____ 2025.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney