

Exhibit A
REAL PROPERTY EXCHANGE, SETTLEMENT
AND REDEVELOPMENT AGREEMENT

This Real Property Exchange, Settlement and Redevelopment Agreement (“**Agreement**”) is made and entered into this _____ day of _____, 2018, by and between PMG Partnership, L.L.C., an Arizona limited liability company (“**PMG**”), and the City of Yuma, an Arizona municipal corporation (“**City**”). Collectively, PMG and the City are referred to as the “**Parties**” or individually as a “**Party**.” 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, including any partial assignment of rights under this Agreement as it relates to the Redevelopment Properties defined in the Recitals below. The term “Party” or the name of a particular Party shall therefore include any such Party's permitted successors and assigns.

RECITALS

WHEREAS, PMG is the owner of certain real property at the northeast corner of the intersection of 16th Street and 4th Avenue in the City of Yuma; and

WHEREAS, in order to widen and reconstruct the 16th Street and 4th Avenue intersection (“**Intersection Improvements**”), the City of Yuma filed an eminent domain action in Yuma County Superior Court as Case Number S1400-CV2016-00142 seeking immediate possession and fee title ownership of three parcels of PMG property deemed necessary for the Intersection Improvements; and

WHEREAS, the Intersection Improvements included undergrounding of utilities, construction of certain aesthetic enhancements shown in Exhibit 1 at each of the four corners of the 16th Street and 4th Avenue (individually an “**Aesthetic Enhancement**” and collectively the “**Aesthetic Enhancements**”) and the construction of a stormwater retention basin on one of the parcels owned by PMG west of the southwest corner of 2nd Avenue and 15th Street; and

WHEREAS, the necessary right-of-way for the northeast corner Intersection Improvements included PMG property along 4th Avenue (“**PMG Parcel 1**”), 16th Street (“**PMG Parcel 2**”), and the retention basin (“**PMG Parcel 3**”), each of which is depicted in Exhibit 2 and described in Exhibit 3; and

WHEREAS, the City of Yuma owns two parcels of real property depicted in Exhibit 2 as **City Parcel 1** (consisting of two prior remnants with a recorded lot tie) and **City Parcel 2** (the remnant of a prior existing gas station); and

WHEREAS, City Parcel 1, consisting of 26,232 square feet, and City Parcel 2, consisting of 23,898 square feet, are described in Exhibit 4; and

WHEREAS, a reserved aesthetic easement (“**Aesthetic Easement**”) for the Aesthetic Enhancement on City Parcel 1 is also depicted in Exhibit 2 and described in Exhibit 4; and

WHEREAS, PMG also owns the parcels depicted in Exhibit 2 as **PMG Parcel 4** (11,570

square feet), **PMG Parcel 5** (30,649 square feet), and **PMG Parcel 6** (77,881 square feet), each described in Exhibit 3; and

WHEREAS, in order to minimize the risk of a possible adverse jury award against either Party in the eminent domain proceeding and to maximize the opportunity for both Parties to redevelop the northeast corner of the 16th Street and 4th Avenue intersection, the Parties agree that the best way of accomplishing these goals is to settle the eminent domain action, and promote redevelopment of the remnant parcels through a land exchange of City Parcel 1 in exchange for PMG Parcel 4, a portion of PMG Parcel 5, and a portion of PMG Parcel 6 according to the terms of this Agreement; and

WHEREAS, on or before Close of Escrow as defined in Section 5.4, City Parcels 1 and 2 and PMG Parcels 3, 4, 5 and 6 shall be re-platted in substantially the form of the PMG/City of Yuma Lot Tie/Lot Split ("**Lot Tie/Lot Split**") attached as Exhibit 5 and more particularly described in Section 12 of this Agreement; and

WHEREAS, the Lot Tie/Lot Split will create four new parcels identified as "**Parcel A**," "**Parcel B**," "**Parcel C**," and "**Parcel D**," shown on the Lot Tie/Lot Split, each sometimes referred to independently as a "**Redevelopment Property**" or collectively as the "**Redevelopment Properties**," with Parcel D being referred to from time-to-time as the "**Retention Basin**"; and

WHEREAS, the Redevelopment Properties are located within the redevelopment area adopted by City Council Resolution R2013-10 and known as the *City of Yuma 2013 Yuma North End, 16th Street and 4th Avenue Redevelopment Area Redevelopment Plan* ("**Redevelopment Plan**"), within the City of Yuma Central Business District, and therefore eligible for favorable tax treatment under the current government property lease excise tax ("**GPLET**") provisions of A.R.S. § 42-6201 *et seq.*; and

WHEREAS, the redevelopment contemplated in this Agreement meets the goals and objectives of the Redevelopment Plan through voluntary and cooperative efforts between the public and private sectors by removing impediments to redevelopment, streamlining the redevelopment process, promoting safe and efficient access to the northeast block of 16th Street and 4th Avenue, enhancing place identity through complimentary and unique signage, and promoting long term sustainability of the Yuma North End; and

WHEREAS, the land exchange will include cross-access and traffic circulation easements through each of four access points onto 15th Street, 16th Street, 4th Avenue and 2nd Avenue as well as the reservation of an Aesthetic Easement, sign easements, access, circulation and drainage easements, and other conditions described in this Agreement; and

WHEREAS, through Ordinance No. 2015-011 (as amended), Ordinance No. O2015-59 Ordinance No. O2017-047, and Ordinance No. O2018-036, the City Council has declared surplus and previously authorized the exchange of all or part of the City Parcel 1 and the acquisition of all or part of PMG Parcels 1 – 6 as described in this Agreement; and

WHEREAS, Article I of this Agreement describes the terms and conditions of the settlement of the eminent domain action in which the City acquires PMG Parcels 1-3 and the

Parties agree to dismiss the case, each Party to bear its own costs, expenses and attorney's fees to date; and

WHEREAS, Article II of this Agreement describes the terms and conditions of the real property exchange between the Parties, the preparation and recording of the Lot Tie/Lot Split, more particularly described in Section 12 in substantially the form attached as Exhibit 5, the site plan, easements, and each of PMG's and the City's obligations and rights; and

WHEREAS, Article III of this Agreement sets forth the land use and zoning entitlements the City is approving, conveying, and vesting in the Redevelopment Properties to address and offset the non-conformities created or imposed upon the Redevelopment Properties by the City's eminent domain action and intersection improvements; and

WHEREAS, Article IV of this Agreement describes the rights and obligations related to the Redevelopment Properties; and

WHEREAS, Article V of this Agreement describes the rights, procedures, rent, term, and other conditions for entering into an eight (8) year government property improvements lease ("**Land and Improvements Lease**") with the City of Yuma on any portion of the Redevelopment Properties, and, provided that all statutory requirements and the terms of this Agreement are met, abatement of the GPLET pursuant to A.R.S. § 42-6209; and

WHEREAS, the Yuma City Council believes that improving the northeast corner of 16th Street and 4th Avenue in accordance with the terms and conditions of this Agreement will (i) contribute to the economic welfare of the City and its residents; (ii) result in a net increase or retention of jobs in the City; (iii) add to the tax base; (iv) demonstrates the potential to generate revenues and other benefits to the City and to the public which would not otherwise be available; (v) will return irregularly-shaped parcels of surplus City property to a productive, commercial use; (vi) represents a fair value exchange of property taking into consideration the City's need for the rights-of-way property and the current conditions that impede redevelopment; and (vii) will help to revitalize the Redevelopment Area by improving the appearance of the 16th Street and 4th Avenue intersection and the entire northeast corner City block; and

WHEREAS, redevelopment of the northeast corner of 16th Street and 4th Avenue is in the best interests of the City, the health, safety, and welfare of City residents, will be of public benefit and accomplished in accordance with the provisions of all federal, state, and local laws, fees and charges, codes and regulations, City Standards, the City of Yuma 2012 General Plan, and the zoning ordinance of the City of Yuma ("**Applicable Laws**") unless permitted otherwise through the terms of this Agreement.

NOW THEREFORE, in consideration of the premises, covenants and considerations contained in this Agreement, the Parties agree as follows:

1. Recitals. Each of the recitals above is true and accurate and incorporated here as a material part of this Agreement.

2. Purpose. To settle the eminent domain action; to set forth the terms of the land exchange together with the rights, obligations and conditions associated with the land exchange and redevelopment of the Redevelopment Properties; to the fullest extent permitted by law, through this Agreement, vest a right in both Parties (and both Parties' successors and assigns as defined in Section 27), to enter into an eight (8) year Land and Improvements Lease with the City of Yuma under state law as such law exists on the Effective Date defined in Section 3, for any portion of the Redevelopment Properties, provided that such Land and Improvements Lease is entered into within five years from the Effective Date of this Agreement.

3. Term. Unless subject to referendum or Court order, this Agreement goes into effect (the "**Effective Date**") thirty (30) days after approval of the Agreement by City Council Resolution and execution of this Agreement by both Parties. This Agreement will terminate fifteen (15) years from the Effective Date (the "**Termination Date**"), with the exception that a covenant expressly stated in this Agreement to survive termination as a perpetual covenant shall run with the land beyond the Termination Date.

Article I. Settlement

4. Consent Agreement. Simultaneously with the execution of this Agreement, the Parties and PMG's mortgagee and beneficiary under a deed of trust, Foothills Bank (now Glacier Bank through merger) ("**Foothills Bank**"), will enter into the Consent Agreement attached as Exhibit 6, the original of which shall be filed with and made a part of this Agreement.

4.1 Consideration. To settle the pending eminent domain action filed by the City against PMG and Foothills Bank, PMG, with the consent of Foothills Bank, agrees to convey to the City the properties sought in the eminent domain action for the City's intersection improvements to 16th Street and 4th Avenue, i.e., PMG Parcel 1, PMG Parcel 2 and PMG Parcel 3, and to exchange all of PMG's right title and interest in and to any portion of Parcel C for all of the City's right title and interest in and to any portion of Parcel B, and in return for PMG's loss of the property in eminent domain, the severance damages that resulted from the taking, and the non-conformities caused by such takings, the City agrees to:

a. Payment. Pay PMG and/or Foothills Bank the sum of one million, three hundred thousand dollars (\$1,300,000.00), which includes any accrued interest pursuant to A.R.S. §§ 12-1116 and 12-1123. PMG acknowledges receipt from the City of seven hundred fifteen thousand, seven hundred and twenty-five dollars (\$715,725.00) deposited by the City with the Superior Court ("**Bond Amount**") which has been paid by the City to PMG on or after January 4, 2017, when PMG received these funds from Superior Court. City, PMG and Foothills Bank (through the Consent Agreement) acknowledge that payment of the Bond Amount leaves a balance due to be paid to PMG and/or the Foothills Bank through Escrow in the amount of six hundred eighty-four thousand, two hundred and seventy-five dollars (\$684,275.00) which City shall deposit with the Escrow Agent no later than three (3) days prior to Close of Escrow (Escrow, Escrow Agent and Close of Escrow are defined in Section 5 below).

The Parties and Foothills Bank (through the Consent Agreement) agree that payment of the balance of \$684,275.00 to PMG shall satisfy all claims of PMG and Foothills Bank against the City of Yuma for all damages attributable to the eminent domain action seeking possession and

fee title to PMG Parcel 1, PMG Parcel 2, and PMG Parcel 3, including (but not limited to) claims attributable to acquisition of the three parcels, severance damages to any remaining PMG property, loss of use, temporary takings or temporary easements, costs to cure, business loss or interference, statutory interest payable to date, and all other damages and interest accrued as a result of or related to the City's eminent domain action; and

b. Land Use and Zoning Entitlements. Approve, convey, and vest the land use and zoning entitlements on the Redevelopment Properties as set forth in greater detail in Article III, below.

4.2 Notice of Settlement and Dismissal. The Parties and Foothills Bank shall file a Notice of Settlement with Yuma County Superior Court in Case No. S1400-CV2016-00142. Upon the Close of Escrow described in Section II below, the Parties and Foothills Bank shall file a joint stipulation with the Court to dismiss Case No. S1400-CV2016-00142 with prejudice, each Party to bear its own costs, fees, expenses, and attorneys' fees incurred in the matter through the date of dismissal.

4.3 Release of Lis Pendens. The City shall file with the Court and the Yuma County Recorder a Release of the Lis Pendens recorded pursuant to the eminent domain action.

Article II. Land Exchange and Escrow

5. Escrow. The Parties acknowledge that escrow ("Escrow") will be initiated with Pioneer Title Agency, Attn: Debra Feller, 350 W. 16th Street, Suite 116, Yuma, Arizona 85364, Tel: 928-343-8043, Email: debra.feller@pioneertitleagency.com ("Escrow Agent").

5.1 Escrow Instructions. The terms and conditions set forth in this Agreement shall constitute both an Agreement between PMG and the City, and "**Escrow Instructions**" to the Escrow Agent for the Escrow. The Parties agree to promptly execute and deliver to Escrow Agent any separate or additional Escrow Instructions requested by Escrow Agent which are consistent with the terms of this Agreement. In the event of a conflict, any separate or additional instruction shall not modify or amend the provisions of this Agreement unless authorized in writing by both PMG and the City.

5.2 Opening of Escrow. The Parties shall deliver a copy of this Agreement to Escrow Agent no later than three (3) days following approval of this Agreement by City Council. Acceptance of this Agreement by Escrow Agent shall be deemed the date of "**Opening of Escrow**." Upon expiration of the thirty (30) day referendum period measured from the date of the City Council approval of this Agreement, the parties shall execute and deliver a fully executed copy of this Agreement to Escrow Agent on or before September 3, 2018. Escrow Agent may accept counterpart signatures. No later than 5 business days prior to the Closing Date (defined in Section 5.4 of this Agreement), each of the Parties shall deposit an amount requested by the Escrow Agent for the purpose of funding any necessary closing costs, recording fees, escrow costs and title insurance associated with the real property exchange. Each Party shall pay half of closing costs, recording fees and Escrow costs. Title insurance shall be paid pursuant to Section 6 below.

5.3 Investment of Deposits. Any sums deposited into Escrow may be placed in an interest-bearing account or invested in interest-bearing securities by Escrow Agent for the benefit of the Party making such deposit in accordance with that Party's further instructions.

5.4 Closing Date. Unless otherwise extended in writing, signed and agreed to by both Parties, the "**Close of Escrow**" shall be held on or before September 7, 2018 (the "**Closing Date**") upon the full and complete satisfaction of all conditions and requirements for the real property exchange and settlement.

5.5 Title Report. As soon as reasonably possible after Opening of Escrow, Escrow Agent shall issue a preliminary title report (together with copies of all Schedule B items) to PMG concerning condition of title of Parcel B of the PMG/City of Yuma Lot Tie/Lot Split to be acquired by PMG, and a preliminary title report (together with copies of all Schedule B items) concerning condition of title of the PMG Parcels 1-3 and Parcel C of the PMG/City of Yuma Lot Tie/Lot Split to be acquired by the City.

5.6 Review of Title-PMG. The state of title to Parcel B shall be subject to valid existing rights and easements, unless otherwise objected to in writing by the acquiring Party, following title review by PMG and its attorney to determine condition of title pursuant to Sections 5.5 through 5.8.

5.7 Review of Title-City. The state of title to PMG Parcels 1-3 and Parcel C shall be subject to valid existing rights, easements, and right-of-ways, unless otherwise objected to in writing by the acquiring Party, following title review by the City of Yuma Right-of-Way Agent and the City Attorney to determine condition of title pursuant to Sections 5.5 through 5.8.

5.8 Notice of Title Objection. If any matters indicated as exceptions in the preliminary title report or any amended report (other than the standard printed exclusions) affect the acquiring Party's contemplated use of the property, that Party shall be entitled to object to such matters by delivering written notice of such objection ("**Notice of Title Objection**") to the other Party and Escrow Agent on or before fifteen (15) days after receipt of the preliminary title report. Such Notice of Title Objection shall specify in reasonable detail the matter objected to and the manner in which the objection affects the contemplated use of the property. The Parties shall be deemed to have approved the condition of title if no such Notice of Title Objection is delivered by such date.

If within fifteen (15) days after receipt of any Notice of Title Objection, the matter objected to has not been eliminated or insured over, the objecting Party shall be entitled to either: (i) terminate this Agreement by written notice to the other Party and Escrow Agent, or (ii) waive its objection by written notice delivered to the other Party and Escrow Agent. If the objecting Party does not waive its objection, this Agreement shall automatically terminate and the Escrow Agent shall promptly return all monies and other deposits, less the administrative costs of escrow, to the Parties making such deposit, and the Parties shall have no further obligations to each other. If the matter objected to is eliminated or the Escrow Agent agrees to insure over said matters or if the purchasing Party waives its objection, Close of Escrow shall occur on the later of (i) five (5) days after the Parties' receipt of notification thereof or (ii) the Closing Date.

6. Exchange of Land. The Parties agree to simultaneously exchange their respective full right, title, and interest in the fee simple to those certain Redevelopment Properties, as follows: (i) PMG shall deliver into Escrow, no later than five (5) business days prior to the Closing Date, a fully executed Special Warranty Deed, substantially in the form attached hereto as Exhibit 7. The Special Warranty Deed will convey to the City, prior to the recordation of the Lot Tie/Lot Split, PMG's full right, title, and interest in the fee simple title to PMG Parcels 1-3, subject to City's review and approval of title pursuant to Sections 5.5 through 5.8 above, valid existing rights, easements, rights-of-way, and the provisions of the Reciprocal Access and Circulation Easement, the Drainage Easement and the Sign Easement (each of which shall be recorded following the recordation of the Lot Tie/Lot Split and Special Warranty Deed). (ii) City shall deliver into Escrow, no later than five (5) business days prior to the Closing Date, a fully executed Special Warranty Deed, substantially in the form attached hereto as Exhibit 8. The Special Warranty Deed will convey to PMG, following the recordation of the Lot Tie/Lot Split, City's full right, title, and interest in the fee simple title to Parcel B, subject to PMG's review and approval of title pursuant to Sections 5.5 through 5.8 above, valid existing rights, easements, rights-of-way, the Lot Tie/Lot Split, and the provisions of the Reciprocal Access and Circulation Easement, the Drainage Easement, the Sign Easement (each of which shall be recorded following the recordation of the Special Warranty Deed) and the reserved Aesthetic Easement. (iii) PMG shall deliver into Escrow, no later than five (5) business days prior to the Closing, a fully executed Special Warranty Deed, substantially in the form attached hereto as Exhibit 9. The Special Warranty Deed will convey to the City, following the recordation of the Lot Tie/Lot Split, PMG's full right, title, and interest in the fee simple title to Parcel C, subject to City's review and approval of title pursuant to Sections 5.5 through 5.8 above, valid existing rights, easements, and rights-of-way, the Lot Tie/Lot Split, and the provisions of the Reciprocal Access and Circulation Easement, the Drainage Easement, and the Sign Easement (each of which shall be recorded following the recordation of the Special Warranty Deed).

6.1 Easements. No later than five (5) business days prior to the Closing Date, the Parties shall deposit into escrow for recording by the Escrow Agent at the Close of Escrow: (i) a Reciprocal Access and Circulation Easement in substantially the form attached as Exhibit 10 (ii) a Drainage Easement in substantially the form attached as Exhibit 11 and (iii) a Pylon Sign Easement and Maintenance Agreement ("Sign Easement") in substantially the form attached as Exhibit 12.

6.2 Title Insurance. Subject to exceptions not objected to under the Notice of Title Objection described in Section 5.8 of this Agreement, each of the Parties shall pay for their own title insurance as of the date and time of Close of Escrow, insuring title to the property being acquired under a Standard Owner's Policy, unless the acquiring Party requests an extended policy or policies or endorsements which shall be paid for by the acquiring Party. City will require standard title insurance on Parcel C and Parcel D only.

6.3 City Payment. No later than three (3) days prior to the Closing Date, the City shall deposit the sum of six hundred eighty-four thousand, two hundred and seventy-five dollars (\$684,275.00) into Escrow to be paid at the Close of Escrow to PMG in accordance with PMG's instructions and the consent of the Foothills Bank.

7. Land Exchange Representations and Warranties.

7.1 Authority. The individuals signing this Agreement on behalf of their respective entities have the power and authority to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by the undersigned Parties in connection herewith are, or when delivered will be, duly authorized, executed and valid, binding and enforceable obligations.

7.2 Title. Upon Close of Escrow, unless otherwise noted in this Agreement, each of the Parties will acquire good, marketable and insurable title to their respective properties, all free and clear of any liens, encumbrances, security interests, liabilities, assessments, pending assessments, agreements, leases, judgments, and claims, but subject to valid existing rights and easements.

7.3 Litigation. Other than the eminent domain action, there are no actions, suits or proceedings pending, or to the best knowledge of the Parties, threatened, nor are there any facts or circumstances which could reasonably form the basis for any such suits, actions or proceedings before any judicial body or any governmental authority, against or affecting any of the properties contemplated for exchange.

7.4 No Violations. There are no violations or infringements of any laws, rules, regulations, ordinances, codes, covenants, conditions, restrictions, or agreements or rights applicable to or affecting any of the properties contemplated for exchange, and the exchanging Party has received no notices from any governmental agencies, insurance companies, or from any other source with respect to any such violations or alleged violations.

7.6 Commissions. Each Party shall defend and hold the other harmless from all liability and expense, including, without limitation, attorneys' fees, arising from any claim by any broker, agent or finder for commissions, finder's fees or similar charges because of any act of such Party.

8. Environmental Considerations. Each of the Parties shall have determined, prior to the Close of Escrow, to its sole satisfaction, which environmental considerations on the property are and are not likely to prevent immediate or long-term use of the property for the uses contemplated.

8.1 Study Period. Within five (5) days after Opening of Escrow, the Parties shall deliver all environmental studies, tests, reports and other tangible materials in their possession or control that pertain to the properties contemplated for exchange. Each acquiring Party shall have the right to conduct various investigations, studies and reviews of the property to be acquired, including any environmental assessment or Phase I or Phase II environmental study during a period of time beginning on the date of Opening of Escrow and ending five days before the Closing Date ("**Study Period**"). Either Party shall be entitled to terminate this Agreement by written notice to the other Party and Escrow Agent at any time prior to the expiration of the Study Period. In the event of such termination, the Escrow Agent shall promptly return all monies and other deposits, less the administrative costs of escrow, free of any interest or claim of the other Party, and, with the exception of the eminent domain action, the Parties hereto shall have no further obligations to each other.

8.2 Indemnification. Each exchanging Party shall indemnify, protect, defend and hold the acquiring Party harmless for, from and against any and all claims, costs, liabilities, judgments, losses or expenses (including, without limitation, attorneys' fees and costs) arising out of, resulting from, or connected with any matters or conditions first occurring as a result of that Party's activities (and the activities of its employees, agents, contractors and representatives) on the property exchanged by that Party prior to the Close of Escrow (or in the case of PMG Parcels 1-3, prior to the entry of the order for immediate possession). Additionally, each of the acquiring Parties shall indemnify, protect, defend and hold the exchanging Party harmless for, from and against any and all claims, costs, liabilities, judgments, losses or expenses (including, without limitation, attorneys' fees and costs) arising out of, resulting from, or connected with any matters or conditions first occurring as a result of the acquiring Party's activities (and those of its employees, agents, contractors and representatives) on the acquired property following the Close of Escrow and during the acquiring Party's ownership or possession of the property.

8.3 Environmental Indemnification. Each exchanging Party assures the acquiring Party that to the best of the exchanging Party's knowledge, the property to be exchanged, including without limitation, the subsurface soils and ground water, are now and as of the Close of Escrow will be: (a) free of any hazardous substances, pollutants or contaminants as these terms are defined in CERCLA, 42 U.S.C. § 9601 et seq., including petroleum products such as crude oil or any fraction thereof (defined here as "**Hazardous Substances**"), and (b) in compliance with any Federal, State or local laws, regulations, ordinances, and rules relating to the release of Hazardous substances into the environment.

Each exchanging Party agrees to indemnify, hold harmless, protect and defend against the acquiring Party having to respond to the presence of Hazardous Substances on the acquired property where such presence is attributable to the conduct of the exchanging Party or its employees or agents. These assurances to indemnify, hold harmless, protect and defend include remediation costs, if any, necessary to ensure that the acquiring Party may continue to use the acquired property for non-residential purposes. The exchanging Party shall only be required to take such actions, and assume such costs, necessary to meet applicable current state and federal requirements for ensuring the property's continued use as a non-residential property.

9. Possession and Entry. With the exception of PMG Parcels 1-3 where an order of immediate possession already exists, exclusive possession of the exchanged properties shall be delivered to the acquiring Party at Close of Escrow. The acquiring Party or its agents shall have the right during the Study Period to enter the property to be acquired at reasonable times for the purpose of conducting examinations, inspections or testing which the acquiring Party deems reasonably necessary to determine if the property is suitable for the acquiring Party's contemplated use.

10. Closing. Not less than five (5) business days prior to the Closing Date, each of the Parties shall deposit the following into Escrow:

- a. The appropriately executed Special Warranty Deeds.

b. The appropriately executed Sign Easement, Reciprocal Access and Circulation Easement and Drainage Easement.

c. An affidavit or qualifying statement satisfying the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the Non-Foreign Affidavit).

d. The Lot Tie/Lot Split.

e. The Release of Lis Pendens

f. Such other instruments and funds as are reasonably required by the Escrow Agent or otherwise required to close the Escrow and consummate the exchange of the properties in accordance with the terms of this Agreement.

g. The City shall deposit the funds described in Section 6.3.

10.1 Proration. Real estate taxes, if any, shall be prorated on the basis of the most recent tax statement for the applicable property. Such proration shall be made as of 12:01 a.m. on the day Close of Escrow occurs on the basis of a 365-day year. At least three (3) business days prior to the Closing Date, Escrow Agent shall deliver to the Parties a tentative proration schedule setting forth a preliminary determination.

10.2 Closing Conditions. Escrow Agent shall hold the Close of Escrow on the Closing Date if: (a) Escrow Agent has received in a timely manner all the funds, a fully executed copy of this Agreement and any other documents required; (b) Escrow Agent has received the appropriate Commitments for each of the parcels and there is no pending Notice of Title Objection; (c) all of the conditions to Close of Escrow have been satisfied.

10.3 Actions by Escrow Agent. To close Escrow, the Escrow Agent shall in the order set forth below:

a. Cause the Special Warranty Deed for PMG Parcels 1-3 to be recorded by the Yuma County Recorder and thereafter mailed to the acquiring Party;

b. Cause the Lot Tie/Lot Split to be recorded by the Yuma County Recorder and thereafter deliver a conformed Mylar to the City;

c. Cause updated Title Commitments for Parcel A, Parcel B and Parcel C to be delivered to the respective Parties;

d. Cause (i) the Special Warranty Deed from the City to PMG fully conveying City's right, title and interest to Parcel B, and (ii) the Special Warranty Deed from PMG to the City fully conveying PMG's right, title and interest to Parcel C, to be recorded by the Yuma County Recorder and thereafter mailed to the acquiring Party;

e. Cause the Sign Easement, Reciprocal Access and Circulation Easement, and Drainage Easement to be recorded and thereafter mailed to the acquiring Party;

f. Cause the Release of Lis Pendens to be recorded by the Yuma County Recorder and thereafter mailed to the acquiring Party;

g. Deliver the appropriate Owner's Policy and the Non-foreign Affidavit to the acquiring Party;

h. Deliver any excess funds to the appropriate Party depositing such funds;

i. Provide each of the Parties with electronic copies of all recorded documents.

10.4 Conflicting Demands. Should Escrow Agent receive or become aware of conflicting demands or claims with respect to the Escrow, the rights of any Party to this Agreement, or funds, documents or property deposited with Escrow Agent, the Escrow Agent shall have the right to discontinue any further acts until such conflict is resolved to the Parties' and Escrow Agent's satisfaction.

10.5 Failure to Close; Cancellation. If the Escrow Agent is not in a position to close Escrow on the Closing Date, Escrow Agent shall close Escrow as soon thereafter as possible; provided, however, that unless the Closing Date is extended in writing by both Parties, if the Closing has not occurred by the thirtieth (30th) day following the Closing Date, then Escrow Agent shall hold on account for the benefit of the depositor thereof any funds or other materials previously placed into Escrow (including any interest on any such funds), until such time as Escrow Agent receives written instructions signed by City and PMG (the "Instructions") directing Escrow Agent to (a) extending the Closing to a date certain or (b) cancel the Escrow in accordance with the terms set forth in the Instructions. No cancellation shall relieve either Party of liability for any failure to comply with the terms of this Agreement, unless specifically agreed to in writing, and shall be in addition to any other rights such Party may have at law or in equity.

Article III. Land Use and Zoning Entitlements.

11. As set forth in Section 4.1 above, and as further consideration for the Parties' agreement to enter into this Agreement, the Parties agree that, in addition to the monetary consideration provided for in Section 4.1(a) above, the following zoning and land use entitlements are necessary to fully and properly compensate PMG for the City's eminent domain action. The Parties acknowledge that the redevelopment and reuse constraints placed on the Redevelopment Properties by the expansion of the adjacent street rights-of-way require modifications allowing the Redevelopment Properties to be redeveloped in accordance with the land use and intensities shown on the Conceptual Site Plan (defined below), including without limitation the City approval herein for Conceptual Site Plan concessions and reduced setback requirements. The City agrees to use its zoning and land use entitlement tools to return these irregularly-shaped Redevelopment Properties to a productive commercial use, overcome development impediments to redevelopment, and help revitalize the Redevelopment Area by improving the developability and appearance of the Redevelopment Properties and the entire 16th Street and 4th Avenue intersection. The City

has reviewed PMG's submittals, plans and proposals, and has concluded that the owners of the Redevelopment Properties shall be entitled to develop the Redevelopment Properties pursuant to certain modified City zoning site development standards and to redevelop the Redevelopment Properties subject to the following agreed-upon substitute standards:

11.1 Site Plan. PMG submitted the "**Conceptual Site Plan**" attached as Exhibit 13 for the redevelopment of Parcel A and Parcel B and those certain Cost-to-Cure Improvements, as defined and more particularly described in Section 12.2(b), being constructed by PMG on Parcel C. The Conceptual Site Plan shows the proposed types and intensities of the various land uses, existing buildings and structures and proposed new buildings and building sites planned for the Redevelopment Properties. The City has reviewed and approved PMG's Conceptual Site Plan and has determined that the Conceptual Site Plan is consistent with the existing, approved General Commercial District (B-2) zoning and the current Commercial General Plan designation for the Redevelopment Properties. A final site plan ("**Site Plan**") shall be submitted in accordance with Applicable Laws. If substantially consistent with the Conceptual Site Plan and the terms of this Agreement, the City shall approve such Site Plan. Upon approval of the Site Plan the redevelopment of the Redevelopment Properties in a manner consistent with the Site Plan, Applicable Laws, the City of Yuma Zoning Ordinance, the Redevelopment Plan and this Agreement shall be recognized as a perpetual right that shall run with the land beyond the Termination Date.

11.2 Drive-Thru Facilities.

a. Conditional Use Permit. The Conceptual Site Plan shows a drive-thru facility on Parcel B, requiring a conditional use permit ("**CUP**") which may not meet the current City Code requirement of 150 feet of street frontage. As set forth above, the City has determined that the Conceptual Site Plan complies with Yuma City Code §§ 154-16.07(P)(4) (seven spaces for each service window), therefore the redevelopment of Parcel B with a drive-thru facility with a building size of 1,800 square feet to 2,800 square feet is recognized, and with the approval of this Agreement, shall be an approved use of Parcel B without further CUP application, or traffic study in accordance with the terms of this Agreement and upon approval of the Site Plan shall survive the termination of this Agreement as a perpetual covenant and shall run with the land beyond the Termination Date.

b. Building, Parking and Drive-Thru Setbacks. The redevelopment of Parcel B for the drive-thru facility depicted on the Conceptual Site Plan with reduced setbacks along 4th Avenue and 16th Streets for buildings at ten feet (10') and for the drive-thru facility at four feet (4') is recognized, and with the approval of this Agreement, shall be the approved setbacks for Parcel B without further application or traffic study in accordance with the terms of this Agreement and shall survive the termination of this Agreement as a perpetual covenant and shall run with the land beyond the Termination Date.. PMG shall provide a minimum three foot (3') high solid masonry screen walls or a continuous screen of planted shrubs along the frontages of 16th Street and 4th Avenue sufficient to screen drive-thru customer's automobile lights from traffic along those arterial streets.

11.3 Building Setbacks. The redevelopment of Parcel A and Parcel C as depicted on the Conceptual Site Plan with reduced building setback along 16th Street and 4th Avenue of ten

feet (10') is recognized, and with the approval of this Agreement, shall be the approved setbacks for Parcel A and Parcel C without further application or traffic study in accordance with the terms of this Agreement and shall survive the termination of this Agreement as a perpetual covenant and shall run with the land beyond the Termination Date.. All buildings shall be located so that paved parking areas or drive aisles do not abut buildings (except as set forth in the Conceptual Site Plan or in areas where such is normal, for example, loading dock areas). Any material modifications to the Conceptual Site Plan shall be subject to the administrative review and approval of the Director of the Department of Community Development.

11.4 Walls and Landscaping: Buildings constructed on Parcel B and Parcel C shall include articulated wall planes, projections and recesses to provide shadow and depth and the exterior shall not include large expanses of blank walls, but shall include architectural embellishments, colors, building materials and textures that are in harmony with the surrounding area. The Conceptual Site Plan includes an approved enclosure for solid waste storage and disposal. The City has reviewed the “**Landscape Plan**” attached as Exhibit 14 showing the type and intensity of the landscaping planned for Parcel A and Parcel B and has determined that the Landscaping Plan meets the requirements of the City of Yuma Landscaping Code, except for (a) that portion of Parcel A and Parcel B abutting 16th Street, and (b) that portion of Parcel B and Parcel C abutting 4th Avenue where the landscaping requirements will be reduced in accordance with the reduced setbacks described and approved in Section 11.3. The redevelopment of Parcel A and Parcel B in a manner consistent with the Landscape Plans is recognized, and with the approval of this Agreement, shall be the approved Landscape Plan without further application, approval, or amendment in accordance with the terms of this Agreement, and the Owners of Parcel A and Parcel B, their successors and assigns, shall have the right to develop Parcel A and Parcel B pursuant to the approved Landscape Plan; provided, however, any material modifications to the approved Landscape Plan shall be submitted to the City for its review and approval. All landscaped plantings including trees and shrubs shall be allowed to grow to their natural height and appropriate shape.

11.5 Signage.

a. Pylon Signs and Building Sign. The Lot Tie/Lot Split depicts the locations for the sign easements and the pylon signs situated thereon for the Redevelopment Properties to be located on Parcel B and Parcel C (respectively, “**Pylon Sign B**” and “**Pylon Sign C**”, and collectively, the “**Pylon Signs**”). Exhibit 15 depicts the type and scale of the freestanding multi-tenant illuminated Pylon signs that the Parties have agreed upon which are intended to serve the owners and tenants of Parcel A, Parcel B and Parcel C. Collectively the Sign Easement set forth in Exhibit 12 and the sign elements set forth in Exhibits 15 and 16 constitute the “**Sign Plan**”. The Pylon Signs shall be placed entirely within the boundaries of Parcel B and Parcel C at a minimum distance of five (5) feet from the Parcel boundary line of Parcel B and Parcel C, as such line shall exist after the Close of Escrow and performance of the Lot Tie/Lot Split. The redevelopment of Parcel B and Parcel C in accordance with the Sign Plan is recognized, and with the approval of this Agreement, shall be an approved use of the Redevelopment Properties without further application, approval, or amendment in accordance with the terms of this Agreement and shall survive the termination of this Agreement as a perpetual covenant and shall run with the land beyond the Termination Date. Section 12.4 describes installation, permitting, insurance and maintenance cost for the Pylon Signs.

b. Other Signage. All other signage for the Redevelopment Properties shall be placed on monuments, building facades or on low profile walls in accordance with the Zoning Code. Proposed signs or a proposed sign package may vary from the City standard as outlined in the Zoning Code, after review and approval of the Director of the Department of Community Development. Signs shall be integrated with the design of the building and site development, reflecting the architecture and the building materials. The means of integrating signs with the architecture of the building shall be achieved through replication of architectural embellishments, colors, building materials, texture and other elements found in the building design. Except as specifically permitted under Section 12.5 of this Agreement, or Applicable Laws, no off-site signs shall be permitted on the Redevelopment Properties.

11.6 Parking and Parking Setback: The Conceptual Site Plan sets forth parking spaces located on the Redevelopment Properties. Redevelopment of Parcel A with reduced setbacks along 16th Street for parking at eight feet (8') as shown on the Lot Tie/Lot Split is recognized and shall be the approved parking setback for Parcel A without further application, approval, or traffic study in accordance with the terms of this Agreement. In addition, while the Conceptual Site Plan shows parking spaces with dimensions of 10 feet wide by 19 feet in length, the City hereby recognizes and permits parking spaces with dimensions of 9.5 feet wide by 19 feet in length on the Redevelopment Properties. With the approval of this Agreement, the reduced setback for parking on Parcel A along 16th Street and the parking space dimensions for the Redevelopment Properties shall be approved uses without further application, approval, or amendment in accordance with the terms of this Agreement and shall survive the termination of this Agreement as a perpetual covenant and shall run with the land beyond the Termination Date.

11.7 Non-Access Restrictions: The Conceptual Site Plan and Lot Tie/Lot Split described in Section 12 will include the non-access restrictions along the street perimeters of the Redevelopment Properties as shown thereon. Such non-access restrictions shall prohibit vehicular access to and from the Redevelopment Properties except for the City approved curb cuts and drive aisles which shall be accessed to and from the Reciprocal Access and Circulation Easement alignments and locations, described in Section 6.1 and depicted on the recorded Lot Tie/Lot Split as a Reciprocal Access and Circulation Easement.

11.8 Stormwater. Pursuant to the Drainage Easement attached hereto as Exhibit 11, the City will permit and accept stormwater runoff from the Redevelopment Properties into the Retention Basin as defined in Section 12.1, provided such runoff meets the EPA and ADEQ standards, as the same may be amended from time-to-time. The Conceptual Drainage Plan attached hereto as Exhibit 17 shows drainage and pipeline alignments to carry stormwater drainage from the Redevelopment Properties to the Retention Basin (the “**Conceptual Drainage Plan**”). The City has determined that the Conceptual Drainage Plan complies with Yuma City Code, therefore the redevelopment of the Redevelopment Properties in a manner consistent with the Conceptual Drainage Plan is recognized with the approval of this Agreement. A final drainage plan (“**Drainage Plan**”) shall be submitted in accordance with Applicable Laws. If substantially consistent with the Conceptual Drainage Plan and the terms of this Agreement, the City shall approve such Drainage Plan, whereupon the redevelopment of the Redevelopment Properties in a manner consistent with the Drainage Plan shall be recognized and shall be the approved Drainage Plan for the Redevelopment Properties without further application, approval, or amendment, in

accordance with the terms of this Agreement, and shall survive the termination of this Agreement as a perpetual covenant and shall run with the land beyond the Termination Date. City shall not be liable to, nor shall the City's acceptance of stormwater from the Redevelopment Properties give rise to any cause of action against the City by the owner of Parcel A, Parcel B or Parcel C, or any of their respective tenants or sub-tenants except for gross negligence on the part of the City.

Pursuant to the terms of the Drainage Easement and completion of the Stormwater Conveyance System described in Section 12, the City agrees to accept stormwater from the Redevelopment Properties into the Retention Basin as a perpetual covenant. The City's covenant to accept stormwater runoff from the Redevelopment Properties into the Retention Basin (subject to EPA and ADEQ standards, as the same may be amended from time-to-time), and Parcel A, Parcel B, and Parcel C's right to dispose of such stormwater into the Retention Basin shall survive the termination of this Agreement and shall run with the land beyond the Termination Date.

11.9 Utilities and Maintenance of the Aesthetic Easement. PMG acknowledges that City has installed electric power and an irrigation water line to the Aesthetic Easement area as part of the City construction and installation of the Aesthetic Enhancements. The owner of Parcel B shall pay all landscaping costs and water and utility costs for the Aesthetic Easement area, including the day-to-day maintenance of Aesthetic Enhancements, landscaping and irrigation lines, day-to-day maintenance of lighting, replacement of bulbs, cleaning of debris and litter, and the restoration of the Aesthetic Enhancements and features after any vandalism or tagging ("**Parcel B Maintenance Obligations**"). With the exception of the Parcel B Maintenance Obligations, all other repairs and restoration of or to the Aesthetic Enhancements, shall be at the cost of the City provided however, that when a third party is legally responsible for negligent damage that third party shall be responsible for the full amount of the damage and replacement cost of the damaged landscaping and supporting facilities. If the full cost of such third-party damage cannot be collected from the third party, the owner of Parcel B shall reimburse the City for one-half the cost of repairing the third-party damage. Notwithstanding the foregoing, Parcel B's Maintenance Obligations of the Aesthetic Enhancements shall be no greater than those of the property owners of the other three corners of the 16th Street and 4th Avenue Intersection.

The Parties acknowledge that the Aesthetic Easement is not City owned right-of-way, and after the land exchange contemplated in Article II of this Agreement, the owner of Parcel B shall retain ownership of the underlying fee simple title to the land subject to the Aesthetic Easement area, the City shall own the Aesthetic Enhancements, and it is the intent of the Parties that in the event of a GPLET transfer, no doctrine of merger shall apply to the Aesthetic Easement area. The owner of Parcel B covenants that no sign, temporary or otherwise, shall be permitted in the Aesthetic Easement which shall not be considered right-of-way. As part of the owner of Parcel B's Maintenance Obligations, the owner of Parcel B shall be responsible for removing any signage from the Aesthetic Easement in accordance with law. The owner of Parcel B's obligations under this paragraph shall be at no cost to the City. The covenants in this Section 11.9 shall survive the termination of this Agreement as perpetual covenants and shall run with title to Parcel B beyond the Termination Date. The obligations under this paragraph shall be noted on the Lot Tie/Lot Split described in Section 12.

11.10 City of Yuma Development Fees, Water and Sewer Capacity Charges.

- a. Rate. PMG and City, and their respective successors and assigns to

PMG PARTNERSHIP L.L.C.

REAL PROPERTY EXCHANGE, SETTLEMENT AND REDEVELOPMENT AGREEMENT

the Redevelopment Properties, acknowledge that there are no City of Yuma Development Fee credits or water and sanitary sewer capacity charge credits associated with or available to Parcel B and Parcel C. For a period of five (5) years from the Effective Date: (i) all water and sanitary sewer capacity and service charges for Parcel B shall be paid in accordance with City of Yuma Utility Regulations at the rate the City assesses as of the Effective Date of this Agreement, and (ii) all City of Yuma Development Fees for Parcel B shall be paid in accordance with the City of Yuma Development Fee Ordinance at the rate the City assesses as of the Effective Date of this Agreement. After five (5) years from the Effective Date, PMG and its successors and assigns shall pay City of Yuma Development Fees and water and sanitary sewer capacity charges at the rate in effect on the date a building permit or water meter application is filed or issued.

b. Payment. City of Yuma Development Fees and water and sanitary sewer capacity charges for Parcel B and Parcel C shall be payable at the time of issuance of the construction permit or water meter (whichever occurs first), but may be deferred until prior to issuance of a certificate of occupancy (“**Deferral Benefit**”). All other fees and charges shall be due and payable according to the time, manner and schedule in Applicable Laws. The Deferral Benefit shall be exercised as follows:

i. Deferral Benefit Eligibility. The owner of Parcel B or Parcel C shall be eligible to exercise the Deferral Benefit for a period of three (3) years after the Effective Date (the “**Expiration of Deferral Benefit Date**”).

ii. Vesting. To vest the Deferral Benefit, an approved footing inspection must occur within sixty (60) days of the date of issuance of the building permit. Time is of the essence. If an approved footing inspection is not successfully completed within sixty (60) days of the issuance of the building permit, no right to the Deferral Benefit shall vest as to that building, and the owner of Parcel B or Parcel C shall either: (1) be issued a refund of eighty percent (80%) of the cost of the building permit and the building permit shall expire; or (2) all deferred fees shall immediately be due and payable to the City to prevent the building permit from expiring. At the Expiration of Deferral Benefit Date, if the Deferral Benefit has vested, the Deferral Benefit shall continue until the issuance of a Certificate of Occupancy unless construction is abandoned. If the Deferral Benefit has not vested by the Expiration of Deferral Benefit Date, the right to exercise the Deferral Benefit shall also expire. An expired building permit shall not prohibit reapplication for the Deferral Benefit provided that a new permit is applied for.

iii. Application. The owner of Parcel B or Parcel C, or their respective successors or assigns, shall submit and sign a City form entitled Request for Deferral of City of Yuma Development Fees and Water and Sewer Capacity Charges (“**Request for Deferral**”). The Deferral Benefit shall be calculated, signed by the owner and the City Administrator or the City Administrator’s designee, and shall constitute an enforceable contract for the payment to the City of all deferred amounts. The completed Request for Deferral, together with this Development Agreement, shall serve as the security required by statute for payment thereof.

iv. Period of Deferral Benefit. Payment in full of the Deferral Benefit amount shall be made to the City of Yuma no later than the date of final inspection or issuance of any Certificate of Occupancy, whether temporary or otherwise.

v. Deferral Benefit Amount Due Upon Transfer or Sale. Notwithstanding any sales contract or agreement to the contrary between PMG or City and the purchaser or lessee of Parcel B or Parcel C, respectively, the owner of Parcel B or Parcel C shall pay all deferred amounts to the City prior to recording the deed or executing any lease transferring a property interest in Parcel B or Parcel C.

Article IV. The Redevelopment Properties

12. Lot Tie/Lot Split. Prior to the adoption of this Agreement, PMG, at its sole cost and expense, submitted and delivered the Lot Tie/Lot Split to the City for review and approval, in the form attached as Exhibit 5. The purpose of the Lot Tie/Lot Split, among other things, is to: (a) facilitate the consolidation of the fractured parcels through the lot tie process, (b) remove the setback requirements from a previous lot tie involving City Parcel 1 recorded at Yuma County Recorder's Fee #2017-10879 (the "**2017 Lot Tie**"), (c) depict the location of the Aesthetic Enhancement Easement, Sign Easement, (d) depict the alignments of the Reciprocal Access and Circulation Easement, (e) depict the alignments of the Drainage Easement, and (e) extinguish and abandon those certain existing easements, all as is shown on the Lot Tie/Lot Split. The Lot Tie/Lot Split shall be subject to the final review and approval of the City and PMG. Once approved, the Lot Tie/Lot Split shall be recorded by Escrow Agent in accordance with the provisions of this Agreement.

12.1 Stormwater Conveyance System. The City has reviewed and approved the Conceptual Drainage Plan. No later than 90 days after the Effective Date, PMG, at PMG's sole cost and expense, shall submit engineered plans for construction of the stormwater drainage improvements and conveyance system for the entire Redevelopment Properties to the Retention Basin utilizing a minimum of 12-inch pipe (unless otherwise approved in writing by the City Engineer) ("**Stormwater Conveyance System**"). Upon City approval of the plans for the Stormwater Conveyance System, PMG, at PMG's sole cost and expense, shall, within one (1) year of obtaining the necessary City approvals and permits, construct and install the Stormwater Conveyance System in accordance with the City-approved plans, Applicable Laws and restore the Retention Basin to a condition acceptable to the City Engineer. In the event PMG has obtained City approval and is diligently proceeding with the Stormwater Conveyance System improvements and is unable to complete within the subject one (1) year period, PMG shall be permitted to complete said improvements so long as it continues to diligently pursue the construction and completion. City grading, plan review, inspection and permitting fees for the Stormwater Conveyance System improvements shall be granted at no cost to PMG upon timely submittal for City approval of the plans. Upon application and subject to usual and customary conditions, the City will issue an encroachment permit to PMG for any work to be accomplished on City-owned property at no cost to PMG, which shall not be unreasonably withheld, conditioned or delayed, in order to authorize PMG to perform that portion of the Stormwater Conveyance System work located on the Retention Basin without the need to obtain further approvals from the City. Upon PMG's completion of Stormwater Conveyance System improvements to City specifications, the City's covenant of acceptance of stormwater runoff from the Redevelopment Properties and the Parties' right to deposit such water in the Retention Basin shall vest in the Redevelopment Properties and survive the termination of this Agreement as a perpetual covenant that shall run with the Redevelopment Properties beyond the Termination

Date.

PMG shall supply the City with at least two different bids for the stormwater conveyance system work for that portion of the work being accomplished on Parcel C. Such bids may be submitted as line items if a part of a larger bid for the Redevelopment Properties. PMG and the City agree that the lower overall bid amount for the Stormwater Conveyance System design and work accomplished on Parcel C shall be treated as if paid in full by the City from the amount described in Section 4.1. The remaining portion of the Stormwater Conveyance System design and work accomplished on any of the other Redevelopment Property (i.e., exclusive of Parcel C), to the extent such Stormwater Conveyance System design and work constitute severance or cost-to-cure damages attributable to the eminent domain action, the Parties agree that the amount of such severance or cost-to-cure damages shall be treated as paid in full by the City from the amount described in Section 4.1.

Each Party, and their respective successors and assigns, shall be responsible for, and bear all future operation, maintenance and repair costs for those portions of the Stormwater Conveyance System improvements that serve to drain their respective Parcels. This maintenance and repair obligation shall survive the termination of this Agreement as a perpetual covenant that shall run with the land beyond the Termination Date.

12.2 Grading, Relocation of Driveways, Curb, Gutter, Sidewalk, and Repaving.
No later than ninety (90) days after the Effective Date, and as generally depicted in the Cost-to-Cure Improvements Plan attached hereto as Exhibit 18:

a. The City, at the City's sole cost and expense, shall move and relocate the west side of the Retention Basin wrought iron fence to the new west boundary of the Retention Basin (approximately 10 feet east of the fence's present location);

b. PMG, at PMG's sole cost and expense, shall submit engineered plans for:

i. The relocation of the existing north-south 24' drive aisle east of its present location, to be relocated on Parcel C as a 24' drive aisle as shown in Exhibit 5;

ii. The relocation of the existing east-west drive aisle to a new alignment north of its present location, to be relocated on Parcel C as a 30' wide drive aisle as shown on Exhibit 5; and

iii. Grading, reconstruction of the sidewalk, curb and gutter, repaving and the Stormwater Conveyance System (collectively, the plans listed in this Section 12.2(b)(i), (ii), and (iii) shall be referred to as the "**Cost-to-Cure Improvements**"). Notwithstanding the foregoing, in no event shall PMG be obligated to (a) construct any improvements on Parcel C, except those improvements shown on Exhibit 18, or (b) construct any improvements on Parcel B, except those improvements shown on Exhibit 18, until such time as PMG commences redevelopment of Parcel B in accordance with the provisions of this Agreement.

Upon City approval of the Cost-to-Cure Improvements plans, PMG, at PMG's sole cost and expense, shall within one (1) year of the date PMG receives the necessary City approvals and permits, begin to construct and install the Cost-to-Cure Improvements in accordance with the City-approved plans and Applicable Laws. Any City grading, plan review, inspection or permitting fees for the Cost-to-Cure Improvements shall be at no cost to PMG upon timely submittal and City approval of the plans. The relocation of the driveways or drive aisles shall require installation of matching sidewalks, curb, and gutter where the existing driveways or drive aisles are removed. PMG shall not be permitted any roadway cuts on either 16th Street or 4th Avenue in the construction of the Cost-to-Cure Improvements; except as may be required in the construction of the 4th Avenue drive aisle and, in that event, PMG shall cause the roadway to be repaired to the condition that existed immediately prior to such roadway cut. PMG shall remove all waste materials from the Redevelopment Properties in a timely manner and restore any City-owned property in a manner acceptable to the City Engineer.

With regard to the Cost-to-Cure Improvements design and work accomplished on any of the Redevelopment Properties, to the extent such design and work constitute severance or cost-to-cure damages attributable to the eminent domain action, the Parties agree that the amount of such severance or cost-to-cure damages shall be treated as paid in full by the City from the amount described in Section 4.1.

Turning movements on 16th Street and 4th Avenue are limited to right turning movements both in and out of the Redevelopment Properties. At some future time, turning movements from 15th Street could, as a traffic safety measure, be similarly limited on the 24 foot north-south drive aisle on Parcel C.

12.3 Landscaping and Lighting. PMG agrees to complete the installation of the landscaping and lighting on Parcel A within one (1) year of the date PMG receives the necessary City approvals and permits. Each owner of Parcel B and Parcel C shall complete the installation of landscaping and lighting at the time each Parcel is developed. Landscaping and Lighting on Parcel A shall be completed in accordance with the Lighting Plan attached as Exhibit 20 and the Landscape Plan attached as Exhibit 14, each of which is approved with the approval of this Agreement. Any material modifications to the Landscape or Lighting Plans shall be subject to the review and approval of the Director of the Department of Community Development. Notwithstanding the forgoing, in the event PMG erects parking canopies (including, but not limited to, solar canopies) on any portion of the northerly parking field located on Parcel A, then PMG shall not be required to install or maintain trees in any landscaped medians situated within the northerly parking field located on Parcel A, but, instead, shall only be required to install and maintain shrubs in the affected landscape medians.

12.4 Pylon Signs. Exhibit 5 depicts the approximate location of Pylon Sign B on Parcel B and Pylon Sign C on Parcel C. Upon approval of this Agreement, PMG shall, within five (5) years thereafter, construct and install the Pylon Signs in accordance with the Sign Plan and Applicable Laws. PMG will own and pay for all installation, permitting, insurance and maintenance costs of the two Pylon Signs. Pursuant to the Sign Easement, the future owners or tenants of Parcel C shall pay their pro rata share of the cost of construction and installation of Pylon Sign C and/or Pylon Sign B if such owners or tenants desire to place their sign panels on the Reserved Panels, as defined in this Section 12.4, whereupon Parcel C shall secure irrevocable

rights to the second panel on Pylon Sign B and the first panel on Pylon Sign C (collectively the “**Reserved Panels**”). Such pro rata share shall be based on the ratio of panel area to the sum total of all available panel areas, regardless whether the total panel area is utilized by a particular owner or tenant. Thereafter, each owner/tenant of Parcel C shall be responsible to pay for its pro rata share of the maintenance and operational costs of each Pylon Sign based on the same ratio of panel area to the sum total of all available panel areas on each Pylon Sign. In the event that Parcel C develops with more than one owner or tenant (for example, the parcel is developed with two office complexes for two different owners or tenants), each owner or tenant shall have rights to utilize fifty percent (50%) of the Reserved Panels, provided that each pays PMG its proportional share of permitting, installation and maintenance costs in which the same pro rata share expense formula shall apply.

Each Party shall grant a perpetual, non-exclusive Sign Easement for the Pylon Signs to the other Party on, over and upon each of the Redevelopment Properties, respectively, at the time of Lot Tie/Lot Split recording. No off-site advertising shall be permitted on either of the Pylon Signs. Provided that all naming or signage is from a business, tenant, owner or entity on one of the Redevelopment Properties, such signage shall not be considered off-site advertising.

12.5 Building and Digital Sign. The City acknowledges PMG’s right to install, operate, and maintain a single building name sign (“**Building Sign**”) on its existing 4-story structure on Parcel A (“**PMG Building**”), similar to that depicted in Exhibit 15. In addition, subject to the City’s review, approval, and permitting, the owner of Parcel A shall also have the right under this Agreement to install, at PMG’s sole cost, a digital sign in a size not to exceed 300 SF (“**Digital Sign**”) on the west/southwest side of the PMG Building, as conceptually shown in Exhibit 19. The Digital Sign may be utilized for offsite commercial advertising purposes, provided that all conditions of this Section 12.5 are met. In exchange, PMG hereby grants to City the perpetual right to 10% of the broadcast time on the Digital Sign on a proportional basis, i.e., 6 minutes of every hour shall belong to the City, at no cost to the City; provided, however, that the development, creation, drafting and/or production of the City’s display ads shall be at the City’s sole cost and expense. This grant shall survive termination of this Agreement as a perpetual covenant that shall run with Parcel A for so long as the Digital Sign shall exist or operate on the PMG Building, excepting any removal for purposes of upgrading, replacing or repairing the Digital Sign. City shall only use its broadcast time for non-commercial purposes which shall include, but are not limited to, City sponsored events (including City sponsored events with non-profit or for-profit organizations), Public Safety Announcements, Public Service Announcements, Emergency Alerts, etc.

12.6 Covenants Run With the Land. The Parties acknowledge that PMG and/or the City may seek to develop one or more of their respective Redevelopment Properties through joint ventures and/or other agreements between experienced developers (each a sub-developer) who may develop a specific parcel, a Transfer Property (as defined in Article V), or in the construction of a building. The Parties agree that the covenants and conditions of this Agreement shall run with the land and shall bind all subsequent and future owners, grantees, purchasers, developers, sub-developers, assignees, lessees, sub-lessees and transferees of any part, interest, or parcel of the Redevelopment Properties through the Termination Date unless stated to run for a shorter or longer period or to survive the termination of this Agreement. By acceptance of a deed or by acquiring any interest in any part or portion of a Redevelopment Property, including, but not

limited to a leasehold interest, each person or entity, for himself or itself, his/its heirs, personal representatives, successors, transferees and assigns, agrees to be bound to all of the provisions, covenants, and conditions of this Agreement, the Redevelopment Plan, any City approved Site Plan, and all Applicable Laws.

12.7 Cost of Redevelopment. Unless specifically agreed to otherwise in writing, PMG shall pay all costs of the redevelopment, including the cost of design, engineering, preparing, developing, permitting, inspection and constructing all Cost-to-Cure Improvements shown on Exhibit 18 and the Stormwater Conveyance System on the Redevelopment Properties, all landscaping and lighting on Parcel A and Parcel B, and the design, engineering, permitting and installation costs for all approved signage and improvements described in this Agreement.

12.8 Encroachment and Right-of-Way Permits and Licenses Required. PMG 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 application forms and process for such issuance. PMG further acknowledges and agrees that City approval of the Site Plan does not constitute authorization for work or improvements in the public right-of-way or any grant or waiver of any permitting requirements of the Permitting Agency. PMG 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 right-of-way.

12.9 Additional Requirements. Prior to conveyance or transfer of any portion of the Redevelopment Properties to a third party or the issuance of a water meter or building permit for any new development within a Redevelopment Property, the responsible Party shall record, utilizing the City’s standard forms as of the Effective Date:

- a. A median disclosure notifying future owners that a median may be constructed within the public right-of-way which may limit turning motions into and out of the lot or parcel, and
- b. An avigation disclosure and easement.

12.10 Notice of Transfers or Assignment. For the Term of this Agreement, PMG shall not sell, convey, assign, hypothecate, pledge, or transfer this Agreement, any Land and Improvements Lease, or PMG’s leasehold, or fee simple interest in Parcel B, without first providing the City with written notice of the proposed transfer or assignment fifteen (15) days in advance (City shall have no consent or approval right in connection therewith). Such notice shall include the name and address of each transferee and a detailed description of the interest being transferred. Said notice is provided as a courtesy only, and in the event PMG fails to provide the courtesy notice described in this Section 12.10, such failure shall not be deemed a default under this Agreement, including without limitation under Section 16.2.

13. City Rights and Obligations. In addition to the City’s settlement and land exchange obligations in Article I and Article II, and the GPLET and abatement rights described in Article V, the City covenants and agrees to:

13.1 Aesthetic Enhancements. The City at its sole cost has designed, constructed and owns the Aesthetic Enhancements placed on the Aesthetic Easement as part of the City's Intersection Improvements. With the exception of the Parcel B Maintenance Obligations under the provisions of Section 11.9, all other repairs and restoration of, or to, the Aesthetic Enhancements, shall be at the cost of the City with the condition that, when a third party is legally responsible for the damage, that third party shall be responsible for the full amount of the damage and replacement cost of the damaged landscaping or Aesthetic Enhancement components. If the full cost of such third-party damage cannot be collected from the third party, the owner of Parcel B shall reimburse the City for one-half the cost of repairing the third-party damage. For liability purposes, the City has obtained an engineer's seal on the design of the Aesthetic Enhancements, has ensured that the Aesthetic Enhancements are constructed in accordance with the sealed design, and shall indemnify and defend the owner of Parcel B in the event of a third-party claim or lawsuit alleging liability resulting from the Aesthetic Enhancements in accordance with the indemnification provision of Section 15.2 of this Agreement. This covenant shall survive the Term of this Agreement and shall run with the Aesthetic Easement.

13.2 Redevelopment Incentive. For five years from the Effective Date, for any building constructed or substantially reconstructed (as defined in A.R.S. § 42-6209A(2)) on the Redevelopment Properties, the owner of such building may request to convey fee title to the property and improvements (each a "**Transfer Property**") to the City of Yuma. For any such request, provided all statutory requirements are met and the terms of the Land and Improvements Lease are acceptable to the City as the landlord, the City agrees to accept conveyance of fee title to the Transfer Property, lease the Transfer Property back to the **Prime Lessee** (as defined in A.R.S. § 42-6201) for a period of eight (8) years after issuance of the certificate of occupancy or certificate of completion, perform the statutory governmental actions to abate the GPLET excise tax to the extent permitted by law, and reconvey fee title to the property and improvements to the Prime Lessee or Prime Lessee's designee as described in Article V below. Any such Land and Improvements Lease shall be an absolute net lease in which all costs or expenses of whatever kind or nature shall be paid by the Prime Lessee for the term of the lease.

V. Certificates of Occupancy, Conveyance, Improvements Lease, GPLET, Mortgage, Reconveyance

14. GPLET Abatement. The City Council finds that the development of the Redevelopment Properties (i) will enhance the economic health of the City; (ii) will result in a net increase or retention of jobs in the City; (iii) will add to the long term tax base; (iv) will otherwise improve or enhance the economic welfare of the residents or businesses of the City; (v) demonstrates the potential to generate other benefits to the City, which should outweigh or are not disproportionate to the cost associated with the abatement incentive. Therefore, in recognition of these and other benefits to the citizens of the City, including but not limited to, undertaking the obligations under this Agreement, the Parties intend, provided all Applicable Laws and requirements are met, that any Transfer Property within the Redevelopment Properties for which a building certificate of occupancy or certificate of completion has been issued, shall be eligible for abatement of the GPLET pursuant to A.R.S. § 42-6209.

14.1 Transfer Notice, Certificate of Occupancy, Conveyance. Provided that (i) the owner of any part or portion of the Redevelopment Properties has given the City 120 days

written notice of intent to transfer property to the City (“**Transfer Notice**”), (ii) a Certificate of Occupancy for any building constructed or reconstructed on any part or portion of the Redevelopment Properties has been issued, and (iii) the construction or reconstruction results in an increase in property value of at least one hundred (100%) per cent, the owner of the Transfer Property may, in accordance with Applicable Laws, convey fee simple title to the building improvements and associated lot or parcel to the City of Yuma.

The Transfer Notice shall include a legal description of the Transfer Property and the date by which the closing of the associated Land and Improvements Lease needs to occur. The City agrees to accept the conveyance or conveyances of the Transfer Property subject to the express covenant and pre-condition that the City shall not have, incur, make or accrue any financial, debt or monetary obligation or commitment to any Lender (as defined in Section 17), and that no Lender shall have any recourse against the City other than foreclosure or a trustee’s sale of a deed of trust or other collateral securing the instrument or obligation to which the Lender is a party. For the term of the Land and Improvements Lease the City shall look solely to Prime Lessee and the Prime Lessee’s successors for the payment of rent and any other sums due and for the performance of all covenants, conditions and obligations contained in this Agreement with regards to that part or portion of the Redevelopment Properties subject to the Land and Improvements Lease.

14.2 Notice; Independent Estimate of Benefits. The City of Yuma must notify the governing bodies of Yuma County, Yuma School District One, Arizona Western College and Yuma Union High School District, including the name and address of the Prime Lessee, the location and proposed use of the government property improvement, and the proposed term of any Land and Improvements Lease on the Transfer Property. At Prime Lessee’s sole cost and expense, the City shall obtain an estimate of the economic and fiscal benefit to the State of Arizona, the County of Yuma, and the City of Yuma that demonstrates that the economic and fiscal benefits of entering into a Land and Improvements Lease(s) exceeds the benefits received by the Prime Lessee as a result of the Land and Improvements Lease(s). Such estimate shall be prepared by an independent third party of the City’s choosing in a manner and method acceptable to the City Council of the City of Yuma. The estimate must be provided to Yuma County, Arizona Western College, Yuma School District One, and the Yuma Union High School District governing bodies no later than thirty (30) days before the vote of the City Council approving any Land and Improvements Lease and shall be completed and provided to the City no later than forty-five (45) days prior to the vote of the City Council.

14.3 Land and Improvements Lease(s). Provided that all Applicable Laws and the requirements of Section 14.2 have been met, City staff agrees to submit any Land and Improvements Lease or Leases on different Transfer Properties, for approval by the City Council. The City Council shall approve or disapprove the Land and Improvements Lease, according to its terms, by majority vote without the use of a consent calendar. Rent shall be no more than one dollar per year for each Transfer Property for the term of the Improvements Lease. Within thirty (30) days after entering into the Land and Improvements Lease, the City shall record a memorandum of lease in the office of the Yuma County Recorder and submit to the Yuma County Treasurer and the Arizona Department of Revenue an abstract or copy of each.

14.4 Taxes and Assessments. The Prime Lessee shall notify the county treasurer and the government lessor and apply for the abatement before the government property lease excise

tax (GPLET) is due and payable in the first year after the certificate of occupancy is issued (delinquent if not paid on or before December 1 of each year). The Prime Lessee, if subject to the GPLET or abatement pursuant to A.R.S. § 42-6209 shall submit a return to the county treasurer at least sixty days before the taxes are due on a return form prescribed by the department of revenue and submit a copy of the return to the City. The return shall include the name and address of the Prime Lessee, and all of the information required pursuant to A.R.S. § 42-6204(B). If abatement applies, the prime lessee shall include a certification under penalty of perjury that all elements necessary to qualify for the abatement are satisfied for the year covered by the return.

Subject to abatement of the GPLET, all real, personal, leasehold, rental and other taxes or assessments of any kind or nature, whether general or special, levied, assessed or imposed upon any part of the Transfer Property, shall be timely paid by the Prime Lessee. This provision does not preclude the Prime Lessee or any permitted sub-lessee from protesting the validity or amount of any tax or assessment.

14.5 Reconveyance. Upon the expiration or other termination of a Land and Improvements Lease, the City shall promptly reconvey the Transfer Property by special warranty deed executed and delivered by the City to the Prime Lessee or Prime Lessee's designee upon receipt of written instructions from the Prime Lessee. At any time after the expiration of the eighth (8th) year of the term of the Land and Improvements Lease, the City shall have the right to terminate and put ownership of the Transfer Property to the Prime Lessee by providing written notice of the City's intent to terminate and reconveying all interest in the Transfer Property by special warranty deed to the Prime Lessee. Upon reconveyance the City makes no warranty as to the condition of the Transfer Property and the improvements thereon. All Transfers of land and any improvements conveyed by or leased from the City to the Prime Lessee will be delivered in their then "As Is" condition.

14.6 Condition of Title. Title to each Transfer Property shall be good and marketable and free and clear of all liens (except for first lien deeds of trust or mortgages held by Lenders that have executed a non-disturbance agreement similar to the form attached as Exhibit 21), restrictions, easements, and other encumbrances and title objections, other than the exceptions listed in this paragraph which include the following: (i) any continuing obligations encumbering the Transfer Property including, but not limited to, the easements described in this Agreement that are not extinguished by the Lot Tie/Lot Split, (ii) taxes not yet due and payable upon the execution of the Land and Improvements Lease, and (iii) the normal and customary patent and water rights endorsements appearing in policies of title insurance for properties located in the same area as the Transfer Property.

14.7 Title Insurance and Closing Costs. The Prime Lessee shall provide City with a standard owner's title insurance policy and leasehold insurance policy for the Transfer Property. The Prime Lessee shall pay all closing, recording or escrow costs for the conveyance of the Transfer Property, the Land and Improvements Lease, and the reconveyance of the Transfer Property. Each Party shall bear their own costs, including attorneys' fees, associated with the negotiation, due diligence, investigation and conduct of these transactions.

14.8 GPLET Release and Indemnity. Notwithstanding the indemnity, risk of loss and insurance provisions in Section 15 below and notwithstanding anything to the contrary in this

Agreement, if the City of Yuma enters into a Land and Improvements Lease with a Prime Lessee as authorized by this Agreement, the Prime Lessee shall defend, indemnify, release and hold harmless the City and its City Council members, officers, employees, agents and attorneys from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, liabilities and lawsuits or arbitration, mediation or other dispute resolution proceedings which arise from, or relate in any way to the application of the provisions of A.R.S. §§ 42-6201 through 42-6210 or any successor statutes, regardless of any acts or omissions of the Prime Lessee, the City, PMG, or any of their successors in the Redevelopment Properties, and regardless of whether initiated by any tenant, subtenant, owner, the Prime Lessee, developer or any third party, including without limitation (i) the repeal or amendment of the GPLET statutes as they exist on the Effective Date of this Agreement; (ii) the misapplication of the appropriate statutory rate pursuant to A.R.S. § 42-6203; (iii) failure of the GPLET Abatement; or (iv) the abated property not being located within the City's central business district, a redevelopment area, or within a slum or blighted area established pursuant to A.R.S. Title 36, Chapter 12, Article 3. This Section 14.8 shall survive the expiration or termination of this Agreement and the termination of any Land and Improvements Lease authorized by this Agreement for a period equal to the applicable statute of limitations period.

VI. General Provisions

15. Indemnity, Risk of Loss, Insurance

15.1 Indemnity by PMG. PMG shall pay, defend, indemnify and hold the City and its City Council members, officers, employees, agents and attorneys harmless from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorney's fees, experts' fees and associated court costs) which arise from or relate in any way to any act or omission on the part of PMG, or PMG's employees, contractors, subcontractors, agents or representatives, or which arise from or relate in any way to the use or occupancy of any Transfer Property; provided however, that the provisions of this Section 15.1 shall not apply to loss or damages or claims which are attributable to acts or omissions of the City or the City's employees, contractors, subcontractors, agents or representatives, and in such cases PMG shall have no defense or indemnity obligation. The defense and indemnity obligations of PMG shall survive the expiration or termination of this Agreement for a period equal to the applicable statute of limitations period.

15.2 Indemnity by the City. The City shall pay, defend, indemnify and hold PMG and PMG's officers, managers, members, employees, agents and attorneys harmless from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities and suits (including attorney's fees and experts' fees and associated court costs) which arise from or relate in any way to any act or omission on the part of the City, or the City's employees, contractors, subcontractors, agents or representatives; provided however, that the provisions of this Section 15.2 shall not apply to loss or damages or claims which are attributable to acts or omissions of PMG, or PMG's employees, contractors, subcontractors, agents or representatives, and in such cases the City shall have no defense or indemnity obligation. The defense and indemnity obligations of the City shall survive the expiration or termination of this Agreement for a period equal to the applicable statute of limitations period.

15.3 Risk of Loss. After the Close of Escrow, with the exception of the City's risk allocated for the Aesthetic Enhancements in Section 13.1 and Section 11.9, PMG and its successors assume the risk of any and all loss, damage or claims relating to Parcel A, and Parcel B. After the Close of Escrow, the City and its successors assume the risk of any and all loss, damage or claims relating to Parcel C and Parcel D. During the term of any Land and Improvements Lease, the Prime Lessee assumes the risk of any and all loss, damage or claims relating to the Transfer Property.

15.4 Insurance. Prior to City acceptance of title to any Transfer Property and during the course of any Land and Improvements Lease, the Prime Lessee and any subtenant of the Prime Lessee shall provide the following insurance naming the City and its employees as additional named insured with an endorsement, waiver of subrogation, and certificate of insurance:

a. Comprehensive General Liability Insurance. Prior to City acceptance of title to any Transfer Property and during the course of any Land and Improvements Lease, the Prime Lessee at Prime Lessee's sole cost and expense shall maintain comprehensive general liability insurance against claims for personal injury, death or property damage occurring in, upon or about the government improvements and the Transfer Property. The limitation of liability of such insurance during the first five years of this Agreement shall not be less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate, with a \$1,000,000 excess, subject to increase from time to time as the City may reasonably require.

b. Standard Fire and Extended Coverage. Prior to City acceptance of title to any Transfer Property and during the course of any Land and Improvements Lease, the Prime Lessee at Prime Lessee's sole cost and expense, shall maintain on the government property improvements (as defined in A.R.S § 42-6209 *et seq.*), a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, to the extent of 90% of full replacement value of the buildings and other insurable improvements. In the case of an insurable loss, an independent third-party trustee shall be appointed to receive and distribute insurance proceeds to assure that replacement or reconstruction is completed according to the plans approved by both Prime Lessee and the City.

c. Special Items. Each insurance policy described in Section 15.4(a) and Section 15.4(b) of this Agreement shall provide the following: (i) the policies cannot be cancelled, or substantially modified until and unless thirty (30) days written notice is received by the City of Yuma (this statement shall be included on the certificate of insurance); (ii) the insurance company shall have no recourse against the City of Yuma for payment of any premium or for assessments under any form of policy; and (iii) the policies are intended as primary coverage for the City of Yuma (included on the certificate of insurance) and that any insurance or self-insurance maintained by the City shall apply in excess of the insurance provided by these policies.

d. Certificates of Insurance. The Prime Lessee shall deliver an ACORD 25 Certificate(s) of Insurance (or its successor form of certificate of liability) with appropriate endorsements, for the policies of insurance required hereunder, to City. The Prime Lessee shall continually maintain evidence of such insurance for City and provide such evidence upon City's request.

e. Waiver of Subrogation. The Prime Lessee shall, upon obtaining the policies of insurance required under Section 15.4(a) and Section 15.4(b) of this Agreement, give notice to the insurance carrier or carriers of the waiver of subrogation set forth in this Agreement and shall obtain, at Prime Lessee's expense, an appropriate waiver of subrogation endorsement from the insurer.

f. No Limitation on Indemnity. The procuring of any policy of insurance shall not be construed to be a limitation upon the Prime Lessee's liability or as a full performance of the indemnification provisions of this Agreement; notwithstanding any policy of insurance, the Prime Lessee's indemnification obligation shall be for the full and total amount of any damage, injury, or loss caused by any negligence or neglect connected with the Transfer Property under this Agreement. Notwithstanding the foregoing, it is not intended for the Prime Lessee's insurance carrier, but such limitation shall only extend up to the amount of said compensation.

g. Failure to Maintain Insurance. Failure to maintain the minimum insurance as stated in this Section 15.4 prior to City acceptance of title to any Transfer Property and during the course of any Land and Improvements Lease shall constitute default of this Agreement. Without waiving any remedies available to City for such default, City may at its option purchase the required insurance and charge the actual insurance expense thereof to the Prime Lessee, which expense the Prime Lessee shall assume and pay as additional rent under any Land and Improvements Lease.

16. 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 prescribed in Section 18 below 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.

16.1 Events of Default by PMG or any Prime Lessee. "**Default**" or an "**Event of Default**" by PMG or any Prime Lessee under this Agreement shall mean one or more of the following:

a. Any representation or warranty made in this Agreement by PMG was materially inaccurate when made or shall prove to be materially inaccurate during the term of this Agreement;

b. Following the execution and delivery of a Land and Improvements Lease between the City of Yuma and PMG, PMG's successors, or a Prime Lessee, the foreclosure (or deed in lieu of foreclosure) upon any mechanic's, materialmen's or other lien upon any of the government property improvements, excluding liens imposed in connection with PMG's or the Prime Lessee's financing or refinancing by Lenders which have entered into non-disturbance agreements with the City, such lien shall not constitute a Default if PMG or the Prime Lessee deposits in escrow sufficient funds to discharge the lien or otherwise bonds over such liens in a customary fashion;

c. Following the execution and delivery of a Land and Improvements Lease, the Prime Lessee fails to maintain the insurance required in Section 14.4;

d. Bankruptcy, insolvency or similar action of the Prime Lessee following the execution and delivery of a Land and Improvements Lease; or

e. PMG or a Prime Lessee fails to observe or perform any other material covenant, obligation or agreement required under this Agreement.

16.2 Events of Default by the City. "Default" or an "Event of Default" by the City under this Agreement shall mean one or more of the following:

a. Any representation or warranty made in this Agreement by the City was materially inaccurate when made or shall prove to be materially inaccurate during the Term of this Agreement;

b. The City fails to observe or perform any material covenant, obligation or agreement required of the City under this Agreement.

16.3 Remedies. If the default is not corrected within the time periods described in Section 16 above, the Non-defaulting Party shall have all remedies available to it at law or in equity, subject to the limitations set forth herein. Either Party 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. If the default is not cured within 180 days after written notice thereof is delivered in accordance with Section 18 below, either party may terminate this Agreement.

16.4 Enforced Delay. PMG shall not be considered in Default of any of its obligations under this Agreement directly affected (an "**Affected Obligation**") by delay due to causes beyond its control, without its fault, without its failure to comply with Applicable Laws, and without its negligence, (an "**Enforced Delay**") for (1) acts of God, acts of public enemy, acts of the Federal, State or local government, and acts of Third Parties, including PMG's contractors, subcontractors, suppliers, and persons or entities with whom or which PMG has a contractual relationship, if the act or omission of such Third Party resulting in the delay was beyond the

reasonable control of PMG; (2) litigation concerning the validity and enforceability of this Agreement or relating to transactions contemplated hereby (including the effect of petitions for initiative or referendum), fires, floods, epidemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather (or the delays of subcontractors or materialmen due to such causes); (3) bankruptcy, insolvency or similar action (if initiated by a Third Party), or any foreclosure or other exercise of remedies of any Lenders. In the event of the occurrence of any Enforced Delay, the time or times for PMG's performance of the Affected Obligation shall be extended for the period of the Enforced Delay, provided that if PMG seeks the benefit of the provisions of this Section, PMG shall, within thirty (30) days after PMG knows or reasonably could have known of any such Enforced Delay, PMG first notifies the City of the specific delay in writing and claims the right to an extension for the period of the Enforced Delay, and provided further that no such extension, whether one or more, shall be claimed for or exceed a cumulative total of one hundred and eighty (180) days for any particular Affected Obligation. Notwithstanding the foregoing, the City shall have no obligation to issue any permits or grant any approvals, unless all requirements under Applicable Laws for the issuance of such permits or the grant of such approvals have been met, including without limitation the payment of all applicable fees, such as planning fees, permit fees, utility fees, and City of Yuma Development Fees; provided, however that City agrees to cooperate in good faith with PMG in connection with any approvals or authorizations requested. Additionally, unless specifically stated otherwise in this Agreement, nothing in this Agreement shall be construed to modify the rates of any fees or charges applicable to any construction project undertaken.

16.5 Delays; Waiver. It is the intent of the Parties that no delay in exercising any right or remedy shall constitute a waiver or limit a Party's rights. This provision will enable each Party to avoid the risk of being limited in the exercise of its rights and remedies by waiver or laches or otherwise at a time when the Party may still hope to resolve the problems created by the default. Either of the Parties shall have the right to waive performance by the other Party of any obligation under this Agreement, but no such waiver shall be valid unless in writing signed by the Party so waiving. No waiver by either Party of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

16.6 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.

17. Rights of Lenders. The City is aware that financing (whether existing or future) or refinancing for acquisition, development and/or construction of 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**"). In the event of default by PMG, PMG's successors, or City's successors (each such successor referred to as an "**Owner**"), City shall provide notice of such event of default to the defaulting party, and at the same time, to not more than two (2) of such Lenders per Parcel, as previously designated to receive such notice (the "**Designated Lenders**") whose names and addresses are provided by written notice to City in accordance with Section 18 below. City shall give PMG or any Owner copies of any such notice provided to such Designated Lenders and, unless City is notified by PMG or Owner that the Designated Lenders names or

addresses are incorrect (and provides City with the correct information) within three (3) business days after PMG or Owner's receipt of such notice from City, City will be deemed to have given such notice to the Designated Lenders even if their names or addresses are incorrect. PMG or Owner may provide notices to other Lenders. If requested by a Designated Lender, the City will enter into a separate non-disturbance agreement with the Designated Lender, similar to the form of Exhibit 21 attached on the condition that the non-disturbance agreement does not result in a novation. A Designated Lender shall be permitted, under the terms of the non-disturbance agreement with City to cure the event of default and/or to assume PMG or Owner's position with respect to this Agreement.

18. Notices. All notices, consents, requests, instructions, approvals, or other communications required or permitted to be given hereunder, shall be in writing, and shall become effective upon receipt if delivered in person, or 72 hours after such are deposited in the United States mail, postage prepaid, addressed as shown below, or to such other address as any Party may, from time to time, designate in writing.

If to City:

City of Yuma
Attn: City Administrator
One City Plaza
Yuma, Arizona 85364
Telephone: (928) 373-5011

With a copy to:

City of Yuma
Attn: City Attorney
One City Plaza
Yuma, Arizona 85364
Telephone: (928) 373-5000

If to PMG:

PMG Partnership, L.L.C.
Attn: Thomas J. Pancrazi
350 W 16th Street
Yuma, Arizona 85364
Telephone: (928) 782-0000

With a copy to:

Lewis Roca Rothgerber Christie LLP
Attn: Michael J. Phalen
201 East Washington, Suite 1200
Phoenix, Arizona 85004
Telephone: 602-262-5777

If to Foothills Bank

The Foothills Bank
Attn: Tom Dolan, Chief Lending Officer
2285 S. 4th Avenue
Yuma, Arizona 85364
Telephone: 928-782-7000

With copy to:

Law Offices of Larry W. Suci

Attn: Barry Olsen, Esq.
101 E. 2nd Street
Yuma, Arizona 85364

If to Escrow Agent:

Pioneer Title Agency
Attn: Debra Feller
350 W. 16th Street, Suite 116
Yuma, Arizona 85364
Telephone: 928-343-8043
Email: debra.feller@pioneertitleagency.com

19. Construction; Severability. Captions of the paragraphs are for convenience only and shall not govern the interpretation of the terms and provisions hereof. This Agreement represents the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

If any term, covenant, condition or 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 PMG from undertaking any contractual commitment to perform under any provision in this Agreement, 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 as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.

20. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof and supersedes any prior agreement, understanding, negotiation, discussion, or representation regarding the subject matters covered by this Agreement. No oral or written statements, promises, or inducements made by either party or its agents not contained in, or specifically referred to in this Agreement is valid or binding.

21. No Partnership, Third Person. 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, firm, corporation or other entity not a Party to this Agreement (including, without limitation, any broker), and no such other person, firm, corporation or entity shall have any right or cause of action hereunder, except for permitted transferees or assignees to the extent that they assume or succeed to the rights and/or obligations of PMG or the City as permitted under this Agreement.

22. Date of Performance. Time is of the essence. If the date of performance of any obligation or the last day of any time period provided for in this Agreement should fall on a

Saturday, Sunday, or legal holiday, then the obligation shall be due and owing, and the time period shall expire, on the first day thereafter which is not a Saturday, Sunday, or legal holiday.

23. Counterparts. For the convenience of the Parties, this Agreement may be executed in two or more counterparts and each executed counterpart shall for all purposes be deemed an original and shall have the same force and effect as an original, but all of which together shall constitute in the aggregate but 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. None of the preparation, circulation of drafts, negotiations, or transmission of signed copies of this Agreement shall constitute an offer to exchange the properties. Neither Party shall have any right, duty or obligation under this Agreement unless nor until this Agreement or counterparts have been executed by both Parties and approved by the Yuma City Council and the resolution approving this Agreement is in effect.

24. Representations of the Parties:

24.1 PMG Representations. PMG represents and warrants that:

a. PMG Partnership, L.L.C. has the full right, power and authorization to enter into and perform this Agreement, the obligations and undertakings of PMG under this Agreement, and the execution, delivery and performance of this Agreement by PMG has been duly authorized, agreed to, and is in compliance with any organizational documents of PMG.

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

d. Other than the eminent domain action described in the Recitals as Case Number S1400-CV2016-00142 (which this Agreement will settle), PMG knows of no litigation, proceeding or investigation pending or threatened against or affecting PMG which could have a material adverse effect on PMG's performance under this Agreement that has not been disclosed in writing to the City.

e. This Agreement (and each undertaking of PMG contained herein) constitutes a valid, binding and enforceable obligation of PMG 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 PMG is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which PMG is a party or to which PMG is otherwise subject.

g. PMG 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. PMG has had opportunity for independent legal review of this Agreement by counsel of PMG's choosing prior to the execution hereof.

24.2. City Representations. City represents and warrants to PMG 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. Other than the eminent domain action described in the Recitals as Case Number S1400-CV2016-00142 (which this Agreement will settle), 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 PMG.

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, referendum, 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 the City's own choosing in connection with the preparation and execution of this Agreement.

25. Exhibits; Sections. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. References to Sections are to Sections of this Agreement unless stated otherwise. References to recorded documents by Yuma County Recorder's Fee Number are incorporated into this Agreement by such reference.

26. 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, 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.

27. Successors and Assigns. All of the provisions hereof shall inure to the benefit of and be binding upon the successors in interest and assigns of each of the Parties, including, any partial assignment. Pursuant to A.R.S. § 9-500.05D, this Agreement will run with the land during the Term of the Agreement as defined in Section 3 or such longer period where the covenant expressly survives the termination of this Agreement. Wherever the term "Party" or the name of any particular Party is used in this Agreement such term shall include any such Party's permitted successors and assigns including any partial assignment.

28. 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, 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 and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section 28.

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

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

31. Estoppel Certificate. The Parties agree that, upon not less than twenty-one (21) business days prior written request, 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 lessee, sub-lessee, or any prospective Lender.

32. 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. Except for those approvals required under Sections 5 and 6, above, and except where set forth herein to the contrary, any approvals required of either Party herein shall not be unreasonably withheld, conditioned or delayed.

33. Amendment. No change or addition is to be made to this Agreement except by written amendment executed by City and PMG. Within ten (10) days after any amendment to

this Agreement, such amendment shall be recorded in the Official Records of Yuma County, Arizona.

34. Individual Non-liability. No City Council member, official, 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 PMG shall be limited solely to the assets of PMG or its successors and shall not extend to or be enforceable against the individual assets of any of the individuals who are members, managers, or officers of PMG.

35. Proposition 207 Waiver. PMG and the City, and both Parties' successors and assigns, waive and release the City from any and all claims under A.R.S. § 12-1134, et seq., including any right to compensation for reduction to the fair market value of any of the Redevelopment Properties or any portion thereof, as a result of City's approval or failure to approve this Agreement or any Land and Improvements Lease. 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 Termination Date or earlier termination of this Agreement.

[Reminder of Page Blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

City of Yuma

PMG Partnership, L.L.C.

By: _____
Gregory K. Wilkinson
City Administrator

By: _____
Thomas J. Pancrazi
Manager

ATTEST

By: _____
Lynda L. Bushong
City Clerk

By: _____
Mark R. Pancrazi
Manager

APPROVED AS TO FORM

By: _____
Richard W. Files
City Attorney

By: _____
Attorney for PMG Partnership, L.L.C.

Acknowledgments

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Gregory K. Wilkinson, City Administrator, City of Yuma, on behalf of the City.

My Commission Expires:

Notary

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Thomas J. Pancrazi, Manager, PMG Partnership, L.L.C., on behalf of the company.

My Commission Expires:

Notary

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Mark R. Pancrazi, Manager, PMG L.L.C., on behalf of the company.

My Commission Expires:

Notary

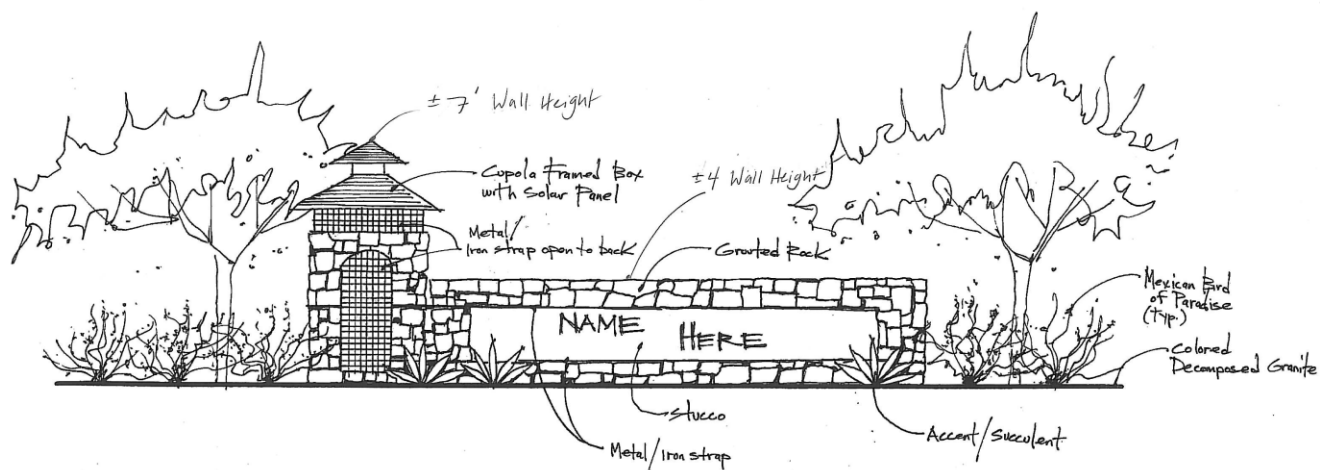
ACCEPTANCE OF ESCROW

ACCEPTED AND ESCROW OPENED. Escrow Agent agrees to be bound by the provisions hereof and to perform its obligations set forth herein.

By: _____
Escrow Agent

Exhibit 1

Aesthetic Enhancements



7.21.15

Exhibit 2
Depiction PMG Parcels 1-6, Aesthetic Easement, City Parcel 1 and City Parcel 2

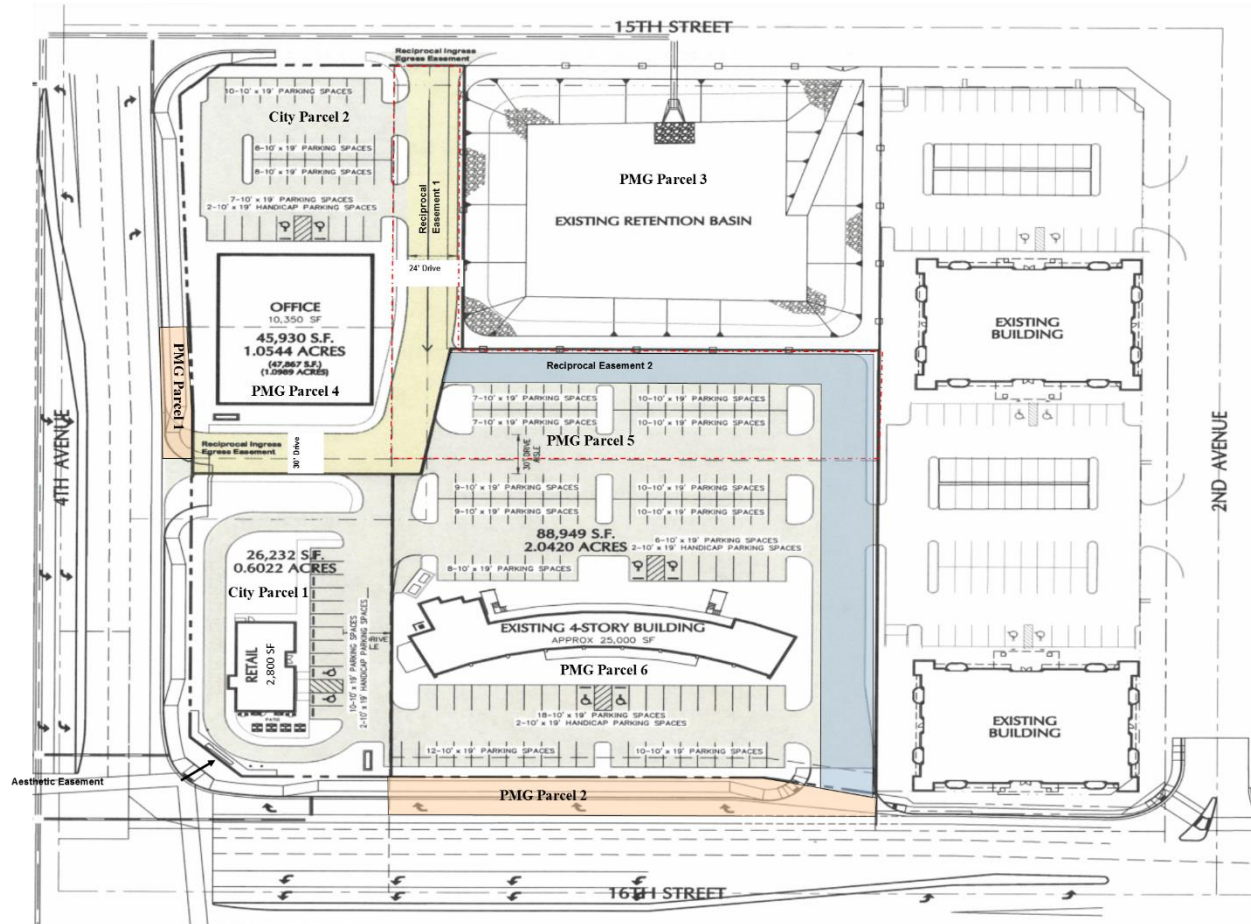


Exhibit 3
Legal Descriptions of PMG Parcels 1-6

PMG Parcel 1 (4th Avenue)

LEGAL DESCRIPTION
PORTION OF 665-27-042
NEW RIGHT-OF-WAY FOR THE EAST SIDE OF 4TH AVENUE
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Southwest corner (Found ½" stem in handhole) of the Southeast quarter (SE1/4) of said Section 28 with a Basis of Bearing to the Northwest corner (Found 3" City of Yuma Brass Cap "LS 19329") of the Southeast quarter of said Section 28 of North 00°25'57" East;

thence North 00°25'57" East along the West line of the Southeast quarter (SE1/4) of said Section 28 a distance of 329.89 feet;

thence South 89°34'03" East perpendicular to the West line of the Southeast quarter (SE1/4) of said Section 28 a distance of 56.00 feet to a point at the Southwest corner of the property as described in Fee number 2010-07569, Yuma County Records and being a point on the Eastern right-of-way of 4th Avenue and also being the TRUE POINT OF BEGINNING;

thence North 00°25'57" East along the West line of said property a distance of 99.99 feet to the Northwest corner of said property;

thence South 89°34'03" East a distance of 16.78 feet;

thence South 01°31'57" East a distance of 64.70 feet;

thence South 00°25'57" West parallel to and 75.00 feet east of the West line of the Southeast quarter of said Section 28 a distance of 35.31 feet;

thence North 89°36'23" West a distance of 19.00 feet to the TRUE POINT OF BEGINNING;

Aforementioned area contains 1928 square feet, 0.0420 acres, more or less.

PMG Parcel 2 (16th Street)

LEGAL DESCRIPTION
PORTION OF APN 665-27-044
NEW RIGHT-OF-WAY FOR THE NORTH SIDE OF 16TH STREET
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Southwest corner (Found ½" stem in handhole) of the Southeast quarter (SE1/4) of said Section 28 with a Basis of Bearing to the Southeast corner (Found 3" City of Yuma Brass Cap "LS 19329") of the Southeast quarter of said Section 28 of South 89°36'50" East;

thence South 89°36'50" East along the South line of the Southeast quarter (SE1/4) of said Section 28 a distance of 469.74 feet;

thence North 00°23'10" East perpendicular to the South line of the Southeast quarter (SE1/4) of said Section 28 a distance of 48.00 feet to a point at the Southeast corner of the property described in Fee# 2010-07569, Yuma County Records and being a point on the Northern right-of-way of 16th Street and also being the TRUE POINT OF BEGINNING;

thence North 89°36'50" West along the South line of said property distance of 279.70 feet;

thence North 00°25'57" East along the West line of said property a distance of 40.00 feet;

thence South 89°36'50" East parallel to and 88.00 feet North of the centerline of 16th Street a distance of 215.71 feet;

thence South 79°11'52" East a distance of 65.04 feet;

thence South 00°24'41" West along the East property line of APN 665-27-044 a distance of 28.24 feet to the TRUE POINT OF BEGINNING;

Aforementioned area contains 10,812 square feet, 0.2482 acres, more or less.

PMG Parcel 3 (Retention Basin)

LEGAL DESCRIPTION

OF 665-27-900 (FORMERLY A PORTION OF APN 665-27-036)
NEW RETENTION BASIN FOR THE SOUTH SIDE OF 15TH STREET
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Northwest corner (Found 1/2" Rebar with obliterated cap in asphalt) of the Southwest quarter of the Southwest quarter of the Southeast quarter (SW1/4SW1/4SE1/4) of said Section 28 with a Basis of Bearing to the Northeast corner (Found 1/2" Rebar in Handhole) of the Southwest quarter of the Southwest quarter of the Southeast quarter of said Section 28 of South 89°35'26" East;

thence South 89°35'26" East along the North line of the Southwest quarter of the Southwest quarter of the Southeast quarter (SW1/4SW1/4SE1/4) of said Section 28 a distance of 259.48 feet;

thence South 00°24'34" West perpendicular to the North line of the Southwest quarter of the Southwest quarter of the Southeast quarter (SW1/4SW1/4SE1/4) of said Section 28 a distance of 30.00 feet to a point on the Northern line of Parcel B-1 as shown on the PMG Lot Tie and Lot Split No. 2 recorded in Book 18 of Plats, Page 51, Yuma County Records, said point also being TRUE POINT OF BEGINNING;

thence South 00°24'41" West parallel to and 210.00 feet west of the Eastern line of said Parcel B-1 a distance of 245.00 feet;

thence South 89°35'26" East parallel to and 245.00 feet south of the Northern line of said Parcel B-1 a distance of 210.00 feet;

thence North 00°24'41" East along the Eastern line of said Parcel B-1 a distance of 245.00 feet to a point on the Northern line of said Parcel B-1;

thence North 89°35'26" West along the Northern line of said Parcel B-1 a distance of 210.00 feet to

the TRUE POINT OF BEGINNING;

Aforementioned area contains 51,450 square feet, 1.181 acres, more or less.

PMG Parcel 4 (4th Avenue)
LEGAL DESCRIPTION
REMAINDER OF APN 665-27-042 AFTER
NEW RIGHT-OF-WAY FOR THE EAST SIDE OF 4TH AVENUE
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Southwest corner (Found ½" stem in hand hole) of the Southeast quarter (SE1/4) of said Section 28 with a Basis of Bearing to the Northwest corner (Found 3" City of Yuma Brass Cap "LS 19329") of the Southeast quarter of said Section 28 of North 00°25'57" East;

thence North 00°25'57" East along the West line of the Southeast quarter (SE1/4) of said Section 28 a distance of 329.89 feet;

thence South 89°34'03" East perpendicular to the West line of the Southeast quarter (SE1/4) of said Section 28 a distance of 56.00 feet to a point at the Southwest corner of the property as described in Fee number 2010-07569, Yuma County Records and being a point on the Eastern right-of-way of 4th Avenue;

thence South 89° 35' 31" East along the South line of said property as described in Fee number 2010-07569 for a distance of 19.00 feet to a point for proposed New Eastern right-of-way of 4th Avenue and the True Point of Beginning;

thence continuing South 89° 35' 31" East along South line of said property as described in Fee number 2010-07569 for a distance of 115.00 feet to the Southeast corner of said property;

thence North 00° 25' 57" East along the East line of said property as described in Fee number 2010-07569 for a distance of 99.99 feet to the Northeast corner of said property;

thence North 89° 35' 31" West along the North line of said property as described in Fee number 2010-07569 for a distance of 117.22 feet to a point of proposed New Eastern right-of-way of 4th Avenue;

thence South 01° 31' 57" East along proposed New Eastern right-of-way of 4th Avenue for a distance of 64.70 feet;

thence South 00° 25' 48" West along proposed New Eastern right-of-way of 4th Avenue for a distance of 35.32 feet, to the True Point of Beginning,

Contains a gross area of 11570.296 square feet or 0.266 acres, more or less.

PMG Parcel 5 (Remainder of City Retention Basin)
LEGAL DESCRIPTION
OF APN 665-27-047 (FORMERLY A PORTION OF APN 665-27-036)
AFTER NEW RETENTION BASIN FOR THE SOUTH SIDE OF 15TH STREET
YUMA, ARIZONA

PARCEL NO. 2:

Parcel B-1, PMG LOT TIE AND LOT SPLIT NO. 2, according to Book 18 of Plats, page 51, records of Yuma County Arizona being located in the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma, County Arizona.

EXCEPT that portion conveyed to the CITY OF YUMA, ARIZONA, a municipal corporation of the State of Arizona in instrument recorded in Document No. 2016-13781.

PARCEL NO. 3:

An Easement for ingress and egress over that portion of the West 190 feet of the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

BEGINNING at the Southwest corner of said Southwest quarter of the Southwest quarter of the Southeast quarter, being the intersection of the centerlines of 4th Avenue and 16th Street;

thence North 0°00'25" East, a distance of 283.85 feet to a point;

thence North 89°58'05" East, a distance of 40.00 feet to the TRUE POINT OF BEGINNING;

thence North 0°00'25" East, a distance of 46 feet to a point;

thence North 89°58'05" East, a distance of 150.00 feet to a point;

thence South 0°00'25" West, a distance of 46 feet to a point;

thence South 89°58'05" West, a distance of 150.00 feet to the TRUE POINT OF BEGINNING.

EXCEPT that portion conveyed to the CITY OF YUMA, ARIZONA, a municipal corporation of the State of Arizona in instrument recorded in Document No. 2016-13781.

PMG Parcel 6 (Office Building)
LEGAL DESCRIPTION OF THE REMAINDER
OF APN 665-27-044 AFTER NEW RIGHT-OF-WAY FOR THE NORTH SIDE OF 16th STREET
YUMA, ARIZONA

The West 279.67 feet of the South 282.05 feet of the following described property:

The Southwest quarter of the Southwest quarter of the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona;

EXCEPT the West 190 feet thereof; and

EXCEPT the North 29.3 feet thereof; and

EXCEPT the South 48 feet thereof; and

EXCEPT the East 30 feet thereof; and

EXCEPT that portion conveyed to the City of Yuma, Arizona, a municipal corporation of the State of Arizona in instrument recorded in Document No. 2016-13781

Exhibit 4
Legal Description Aesthetic Easement, City Parcel 1 and City Parcel 2

Aesthetic Easement
LEGAL DESCRIPTION
PORTIONS OF APN 665-27-048 FOR AESTHETIC ENHANCEMENT
EASEMENT FOR THE NORTH SIDE OF 16th STREET
AND THE EAST SIDE OF 4TH AVENUE
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Southwest corner (Found ½" stem in hand hole) of the Southeast quarter (SE1/4) of said Section 28 with a Basis of Bearing to the Southeast corner (Found 3" City of Yuma Brass Cap "LS 19329") of the Southeast quarter (SE1/4) of said Section 28 of South 89°36'50" East;

thence South 89°36'55" East along the South line of the Southeast quarter of said Section 28 a distance of 190.00 feet;

thence North 00°23'10" East perpendicular to the South line of the Southeast quarter (SE1/4) of said Section 28 a distance of 48.00 feet to a point at the Southeast corner of Parcel 1 as described in Fee# 2005-42917, Yuma County Records and being a point on the Northern right-of-way of 16th Street;

thence North 00°25'57" East along the East property line of APN 665-27-048 a distance of 40.00 feet to a point on the New North Right-of-Way line;

thence North 89°36'55" West along the South line of said property a distance of 65.00 feet and the True Point of Beginning;

thence North 00°23'05" East a distance of 5.00 feet to a point;

thence North 89° 36' 55" West a distance of 16.51 feet to a point;

thence North 44° 35' 26" West a distance of 40.28 feet to a point;

thence North 00° 25' 57" East a distance of 16.51 feet to a point;

thence North 89° 39' 13" West a distance of 5.00 feet to a point;

thence South 00° 25' 57" West a distance of 20.00 feet to a point;

thence South 44° 35' 26" East a distance of 42.41 feet to a point;

thence South 89° 36' 55" East a distance of 20.00 feet to a point and the True Point of Beginning;

Aforementioned area contains 431 square feet, 0.010 acres, more or less

EXCEPT that portion abandoned by the City of Yuma, Arizona, a municipal corporation of the State of Arizona in instrument recorded in Document No. 2018-
_____.



City Parcel 1
LEGAL DESCRIPTION 665-27-010
YUMA, ARIZONA

Parcel 1 of the NE Corner of 4th Ave & 16th Street Lot Tie according to Book 28 of Plats, page 88 and in Document No. 2017-10879, records of Yuma County, Arizona being located in the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, County of Yuma, State of Arizona.

City Parcel 2
LEGAL DESCRIPTION
PORTION OF 665-27-043 ON THE EAST SIDE OF 4TH AVENUE
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

The North 200.00 feet of the South 630.00 Feet of the East 150.0 of the West 190.0 feet of the Southeast quarter (SE1/4) of said Section 28;

Excepting therefrom for new Right-of-Way more particularly described as follows:

Beginning at the monumented Southwest corner (Found ½" stem in hand hole) of the Southeast quarter (SE1/4) of said Section 28 with a Basis of Bearing to the Northwest corner (Found 3" City of Yuma Brass Cap "LS 19329") of the Southeast quarter of said Section 28 of North 00°25'57" East;

thence North 00°25'57" East along the East line of the Southwest quarter of said Section 28 a distance of 429.88 feet;

thence South 89°34'03" East perpendicular to the West line of the Southeast quarter of said Section 28 a distance of 40.00 feet to a point at the Southwest corner of the property as described in Fee number 2010-19439, Yuma County Records and being a point on the Eastern right-of-way of 4th Avenue and also being the TRUE POINT OF BEGINNING;

thence North 00°25'57" East along the West line of said property a distance of 200.31 feet to the Northwest corner of said property;

thence South 89°35'26" East along the Northern line of said property a distance of 49.20 feet;

thence South 44°31'15" West a distance of 32.33 feet;

thence South 01°31'57" East a distance of 177.21 feet;

thence North 89°34'03" West along the South line of said property a distance of 32.78 feet to the TRUE POINT OF BEGINNING;

Aforementioned area contains 23,898 square feet, 0.549 acres, more or less.



Exhibit 5
PMG/City of Yuma Lot Tie/Lot Split

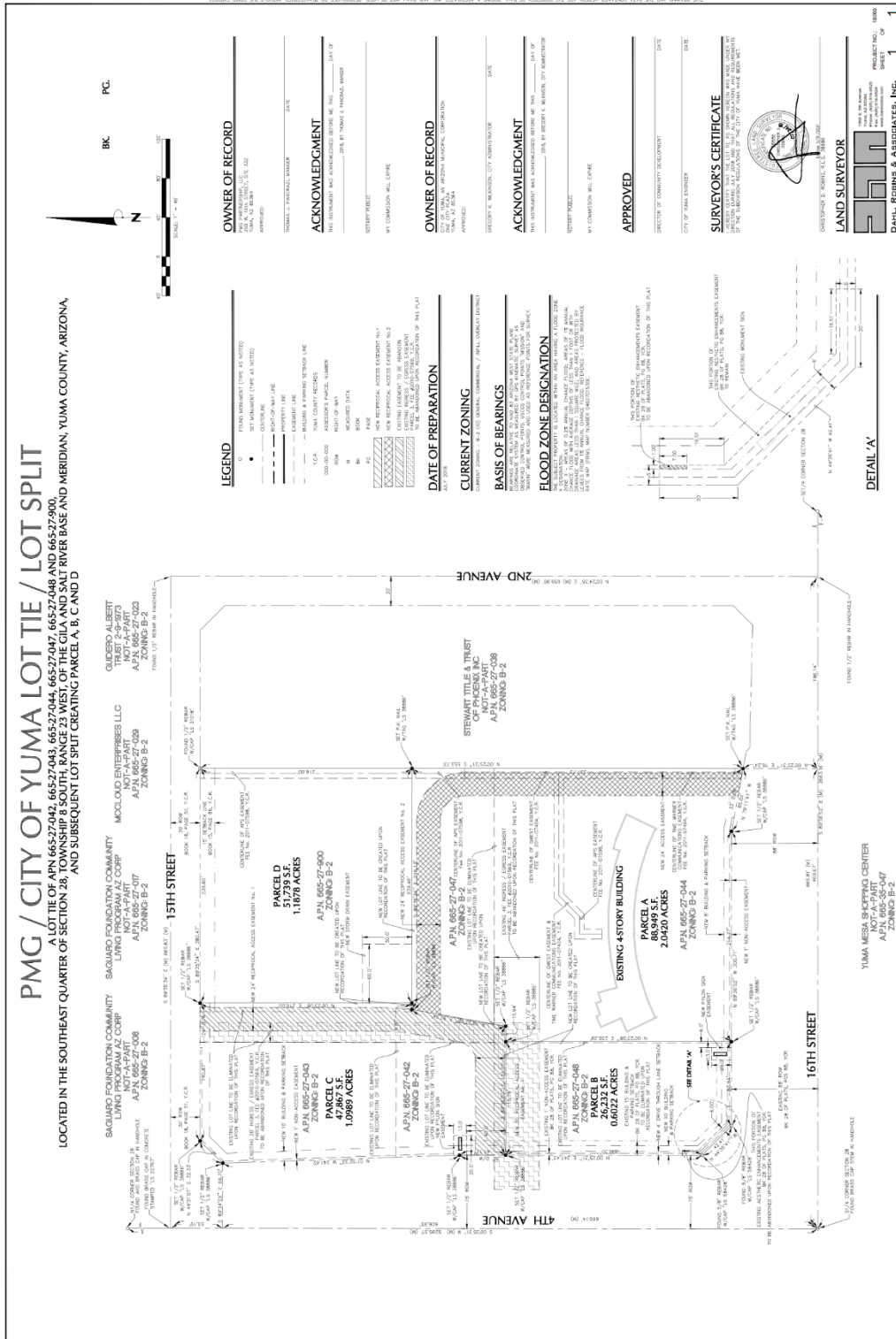


Exhibit 6

CONSENT AGREEMENT

This Consent Agreement ("**Consent Agreement**") is made and entered into this ____ day of _____ 2018 ("**Execution Date**"), by and between PMG Partnership, L.L.C., an Arizona limited liability company ("**PMG**"), Foothills Bank, an Arizona corporation (now Glacier Bank through merger) ("**Foothills Bank**") and the City of Yuma, an Arizona municipal corporation ("**City**"). Collectively, PMG, Foothills Bank and the City are referred to in this Consent Agreement as the "**Parties**" or individually as a "**Party**."

RECITALS:

WHEREAS, PMG is the owner of certain real property described in Exhibit 3 to the *Real Property Exchange, Settlement and Redevelopment Agreement* ("**Agreement**") entered into with the City, dated _____, 20____, and to be recorded in the Official Records of Yuma County, Arizona and of which, this Consent Agreement is attached as Exhibit 6 and incorporated into the Agreement as a part thereof; and,

WHEREAS, in order to widen and reconstruct the 16th Street and 4th Avenue intersection ("**Intersection Improvements**"), the City sought to acquire from PMG, certain rights-of-way and easements necessary for the construction and/or expansion of the Intersection Improvements associated with the 16th Street and 4th Avenue roadway improvements project; and,

WHEREAS, on or about March 7, 2016, the City filed an eminent domain action in Yuma County Superior Court, Case No. S1400CV201600142 ("**Eminent Domain Proceeding**") seeking immediate possession and fee title to PMG Parcels 1, 2 and 3, described in both the Agreement and the Complaint filed by the City in the Eminent Domain Proceeding; and,

WHEREAS, as the named beneficiary of a Deed of Trust on the PMG Property dated January 28, 2011, recorded in the Office of the Yuma County Recorder at recording number 2011-02428 ("**Deed of Trust**"), Foothills Bank was required to be a named party to the Eminent Domain Proceeding; and,

WHEREAS, the City and PMG have reached a settlement and resolution of the eminent domain action as described in the Agreement; and,

WHEREAS, each of the Parties desire to fully resolve the Eminent Domain Proceeding and have entered into this Consent Agreement for the purposes of Foothills Bank consenting and agreeing to the settlement, resolution and dismissal of the Eminent Domain Proceeding, as set forth in the Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms, conditions and provisions set forth in this Consent Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the City, PMG and the Bank agree as follows:

COVENANTS:

1. **Recitals.** The Parties acknowledge that the Recitals set forth above are true, correct, and incorporated into this Consent Agreement by reference.

2. **Consent.** Foothills Bank acknowledges, agrees and consents to the following terms of settlement of the Eminent Domain Proceeding filed by the City against PMG and Foothills Bank:

a. **Payment.** The City agrees to pay PMG and/or Foothills Bank the sum total of one million, three hundred thousand dollars (\$1,300,000.00) which includes any accrued interest pursuant to A.R.S. §§ 12-1116 and 12-1123. PMG and Foothills Bank acknowledge receipt from the City of seven hundred fifteen thousand, seven hundred and twenty-five dollars (\$715,725.00) deposited by the City with the Superior Court (“**Bond Amount**”). PMG and Foothills Bank acknowledge the Bond Amount has been paid by the City to PMG on or after January 4, 2017, when PMG received these funds from Superior Court. City, PMG and Foothills Bank acknowledge that payment of the Bond Amount leaves a balance due to be paid to PMG and/or the Foothills Bank through Escrow in the amount of six hundred eighty-four thousand, two hundred and seventy-five dollars (\$684,275.00) which City shall deposit with the Escrow Agent no later than three (3) days prior to Close of Escrow (Escrow, Escrow Agent and Close of Escrow are all defined in Section 5 of the Agreement).

b. **Satisfaction of All Claims.** The Parties through this Consent Agreement, agree that payment by the City of the balance of \$684,275.00 into Escrow, and that upon the Close of Escrow and the tender by Escrow Agent of such payment to PMG and/or Foothills Bank as each of PMG and Foothills Bank shall jointly direct Escrow Agent in writing, shall satisfy all claims of PMG and Foothills Bank against the City of Yuma for any and all damages attributable to the eminent domain action seeking possession and fee title to PMG Parcel 1, PMG Parcel 2, and PMG Parcel 3, including (but not limited to) claims attributable to acquisition of the three parcels, severance damages to any remaining PMG property, loss of use, temporary takings or temporary easements, costs to cure, business loss or interference, statutory interest payable to date, and all other damages and interest accrued as a result of or related to the City’s eminent domain action.

c. **Direction to Escrow Agent.** In a separate written instruction to Escrow Agent, PMG and Foothills Bank shall direct the manner and the amount of the \$684,275.00, if any, that shall be paid to each of PMG and Foothills Bank. Such direction to Escrow Agent shall be signed by both an authorized agent of Foothills Bank and PMG.

3. **Notice of Settlement and Dismissal.** The Parties shall file a Notice of Settlement with Yuma County Superior Court in Case No. S1400-CV2016-00142. Upon the Close of Escrow, the Parties shall file a joint stipulation with the Court to dismiss Case No. S1400-CV2016-00142, with prejudice, each Party to bear its own costs, fees, expenses, and attorneys’ fees incurred in the matter through the date of dismissal.

4. **Compromise.** Each of the Parties agree to abide by the provisions and conditions of this Consent Agreement, but expressly acknowledge that their execution of this Consent Agreement is a compromise of the claims and disputes alleged in the Eminent Domain Proceeding,

and that the execution of this Consent Agreement is not in any way to be construed as an admission of liability by any Party.

5. Further Assurances. Each of the Parties shall execute, deliver, file, and/or record, or cause to be executed, delivered, filed, and/or recorded such further agreements, instruments, and other documents, and take, or cause to be taken, such further actions, as the other Party may reasonably request as necessary or advisable to effect or evidence the transactions contemplated by this Consent Agreement.

6. Advice of Counsel. Each of the Parties expressly acknowledge that they have been represented by their respective attorneys in connection with the preparation and execution of this Consent Agreement, that this Consent Agreement is the jointly-drafted product of arms-length negotiations between the Parties and the terms, conditions and provisions of this Consent Agreement shall be construed only according to their fair import.

7. Representations. In executing this Consent Agreement, each Party acknowledges that it is not relying, nor has it relied upon any statement or representation made by or on behalf of any other Party, or by any agent, attorney, or employee of any other Party concerning the matters that are the subject of this Consent Agreement, other than the representations and warranties set forth in this Consent Agreement.

8. Authority. Each of the Parties signing below expressly represents that they have full and complete authority to bind the entity on whose behalf they are signing this Consent Agreement.

9. Governing Law and Venue. This Consent Agreement shall be construed in accordance with the laws of the State of Arizona and the venue to resolve any dispute over this Consent Agreement shall be the Superior Court of Yuma County, Arizona.

10. Attorneys' Fees. If any Party institutes suit or arbitration against any other Party to enforce or interpret the terms of this Consent Agreement, the prevailing Party shall be entitled to all taxable and non-taxable costs, consultant and expert witness fees, and pre-judgment and post-judgment reasonable attorneys' fees incurred as a result of such action.

11. Amendment. This Consent Agreement shall not be modified or amended except in writing signed by all Parties hereto.

12. Time of the Essence. Time is of the essence in this Consent Agreement.

[Reminder of Page Blank]

IN WITNESS WHEREOF, the Parties have executed this Consent Agreement as of the date first written above.

City of Yuma

PMG Partnership, L.L.C.

By: _____
Gregory K. Wilkinson
City Administrator

By: _____
Thomas J. Pancrazi
Manager

ATTEST

By: _____
Lynda L. Bushong
City Clerk

By: _____
Mark R. Pancrazi
Manager

Foothills Bank

By: _____

Its: _____

APPROVED AS TO FORM

By: _____
Richard W. Files
City Attorney

By: _____
Attorney for PMG Partnership, L.L.C.

By: _____
Barry Olsen
Attorney for Foothills Bank

State of Arizona)
) ss
County of Yuma)

My Commission Expires: _____
Notary

My Commission Expires: _____
Notary

My Commission Expires: _____
Notary

My Commission Expires: _____
Notary

Exhibit 7
SPECIAL WARRANTY DEED
PMG Partnership, L.L.C. to City of Yuma

RECORDING REQUESTED BY
City of Yuma
AND WHEN RECORDED MAIL TO:

City of Yuma
c/o Right-of-Way Agent
One City Plaza
Yuma, Arizona 85364

ESCROW NO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Special Warranty Deed

For the consideration of Ten Dollars, and other valuable considerations, **PMG Partnership, L.L.C.**, an Arizona limited liability company, (**Grantor**) does hereby grant and convey to **City of Yuma**, an Arizona municipal corporation (**Grantee**), the following real property situated in **Yuma** County, Arizona:

See Exhibit A attached hereto and by this reference made a part hereof.

Exempt from Affidavit per ARS 11-1134 B 3

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record. Grantor warrants title against acts of Grantor herein and no other, subject to the matters set forth above.

Dated _____, 2018.

Grantor:

PMG Partnership L.L.C.

Thomas J. Pancrazi
Manager

Mark R. Pancrazi
Manager

Acknowledgements

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, by Thomas J. Pancrazi, Manager, PMG Partnership, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

My Commission Expires: _____
Notary

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, by Mark R. Pancrazi, Manager, PMG Partnership, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

My Commission Expires: _____
Notary

Legal Description Verified by City Engineer	
Date	

Acceptance

Accepted and approved this _____ day of _____, 201____

City of Yuma

By: _____
Gregory K. Wilkinson
City Administrator

Attest:

Approved as to Form:

By: _____
Lynda L. Bushong
City Clerk

By: _____
Richard W. Files
City Attorney

Exhibit A to Warranty Deed

PMG Parcel 1 (4th Avenue)

LEGAL DESCRIPTION
PORTION OF 665-27-042
NEW RIGHT-OF-WAY FOR THE EAST SIDE OF 4TH AVENUE
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Southwest corner (Found ½" stem in handhole) of the Southeast quarter (SE1/4) of said Section 28 with a Basis of Bearing to the Northwest corner (Found 3" City of Yuma Brass Cap "LS 19329") of the Southeast quarter of said Section 28 of North 00°25'57" East;

thence North 00°25'57" East along the West line of the Southeast quarter (SE1/4) of said Section 28 a distance of 329.89 feet;

thence South 89°34'03" East perpendicular to the West line of the Southeast quarter (SE1/4) of said Section 28 a distance of 56.00 feet to a point at the Southwest corner of the property as described in Fee number 2010-07569, Yuma County Records and being a point on the Eastern right-of-way of 4th Avenue and also being the TRUE POINT OF BEGINNING;

thence North 00°25'57" East along the West line of said property a distance of 99.99 feet to the Northwest corner of said property;

thence South 89°34'03" East a distance of 16.78 feet;

thence South 01°31'57" East a distance of 64.70 feet;

thence South 00°25'57" West parallel to and 75.00 feet east of the West line of the Southeast quarter of said Section 28 a distance of 35.31 feet;

thence North 89°36'23" West a distance of 19.00 feet to the TRUE POINT OF BEGINNING;

Aforementioned area contains 1928 square feet, 0.0420 acres, more or less.

PMG Parcel 2 (16th Street)

LEGAL DESCRIPTION
PORTION OF APN 665-27-044
NEW RIGHT-OF-WAY FOR THE NORTH SIDE OF 16TH STREET
YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Southwest corner (Found ½" stem in handhole) of the Southeast quarter (SE1/4) of said Section 28 with a Basis of Bearing to the Southeast corner (Found 3" City

Exhibit A to Warranty Deed (Continued)

of Yuma Brass Cap "LS 19329") of the Southeast quarter of said Section 28 of South 89°36'50" East;

thence South 89°36'50" East along the South line of the Southeast quarter (SE1/4) of said Section 28 a distance of 469.74 feet;

thence North 00°23'10" East perpendicular to the South line of the Southeast quarter (SE1/4) of said Section 28 a distance of 48.00 feet to a point at the Southeast corner of the property described in Fee# 2010-07569, Yuma County Records and being a point on the Northern right-of-way of 16th Street and also being the TRUE POINT OF BEGINNING;

thence North 89°36'50" West along the South line of said property distance of 279.70 feet;

thence North 00°25'57" East along the West line of said property a distance of 40.00 feet;

thence South 89°36'50" East parallel to and 88.00 feet North of the centerline of 16th Street a distance of 215.71 feet;

thence South 79°11'52" East a distance of 65.04 feet;

thence South 00°24'41" West along the East property line of APN 665-27-044 a distance of 28.24 feet to the TRUE POINT OF BEGINNING;

Aforementioned area contains 10,812 square feet, 0.2482 acres, more or less.

PMG Parcel 3 (Retention Basin)

LEGAL DESCRIPTION PORTION OF 665-27-036 NEW RETENTION BASIN FOR THE SOUTH SIDE OF 15TH STREET YUMA, ARIZONA

That portion of the Southeast quarter (SE1/4) of Section 28, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the monumented Northwest corner (Found 1/2" Rebar with obliterated cap in asphalt) of the Southwest quarter of the Southwest quarter of the Southeast quarter (SW1/4SW1/4SE1/4) of said Section 28 with a Basis of Bearing to the Northeast corner (Found 1/2" Rebar in Handhole) of the Southwest quarter of the Southwest quarter of the Southeast quarter of said Section 28 of South 89°35'26" East;

thence South 89°35'26" East along the North line of the Southwest quarter of the Southwest quarter of the Southeast quarter (SW1/4SW1/4SE1/4) of said Section 28 a distance of 259.48 feet;

thence South 00°24'34" West perpendicular to the North line of the Southwest quarter of the Southwest quarter of the Southeast quarter (SW1/4SW1/4SE1/4) of said Section 28 a distance of 30.00 feet to a point on the Northern line of Parcel B-1 as shown on the PMG Lot Tie and Lot Split No. 2 recorded in Book 18 of Plats, Page 51, Yuma County Records, said point also being TRUE POINT OF BEGINNING;

Exhibit A to Warranty Deed (Continued)

thence South 00°24'41" West parallel to and 210.00 feet west of the Eastern line of said Parcel B-1 a distance of 245.00 feet;

thence South 89°35'26" East parallel to and 245.00 feet south of the Northern line of said Parcel B-1 a distance of 210.00 feet;

thence North 00°24'41" East along the Eastern line of said Parcel B-1 a distance of 245.00 feet to a point on the Northern line of said Parcel B-1;

thence North 89°35'26" West along the Northern line of said Parcel B-1 a distance of 210.00 feet to the TRUE POINT OF BEGINNING;

Aforementioned area contains 51,450 square feet, 1.181 acres, more or less.

Exhibit 8
SPECIAL WARRANTY DEED
City of Yuma to PMG Partnership, L.L.C.

RECORDING REQUESTED BY
PMG Partnership, L.L.C.
AND WHEN RECORDED MAIL TO:

PMG Partnership, L.L.C.
c/o Thomas J. Pancrazi
350 W 16th Street, Suite 332
Yuma, Arizona 85364

ESCROW NO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Special Warranty Deed

For the consideration of Ten Dollars, and other valuable considerations, the **City of Yuma**, an Arizona municipal corporation (**Grantor**) do/does hereby grant and convey to **PMG Partnership, L.L.C.**, an Arizona limited liability company (**Grantee**) all if its rights, title and interest in the following real property situated in Yuma County, Arizona:

See Exhibit A attached and by this reference made a part hereof.

RESERVING unto the Grantor an Easement for Aesthetic Enhancements as more particularly described and concerning the real property in Exhibit B attached and by this reference made a part hereof.

Exempt from Affidavit per ARS 11-1134 B 3

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record. Grantor warrants title against acts of Grantor herein, and no other, subject to the matters set forth above.

Dated this _____ day of _____, 2018

GRANTOR:
City of Yuma, an Arizona municipal corporation

Gregory K. Wilkinson
City Administrator
Attest:

Lynda L. Bushong
City Clerk

Approved as to form:

Richard W. Files
City Attorney

Acknowledgement

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____ 2018, by Gregory K. Wilkinson, City Administrator of the City of Yuma.

My Commission Expires:

Notary

Legal Description Verified by City Engineer	
Date	

Acceptance

Accepted and approved this _____ day of _____, 2018

PMG Partnership, L.L.C.

Thomas J. Pancrazi
Manager

Mark R. Pancrazi
Manager

**Exhibit A to Special Warranty Deed
Legal Description Parcel B**

Parcel B, PMG / CITY OF YUMA LOT TIE / LOT SPLIT, according to Book _____ of Plats, page _____, records of Yuma County Arizona being located in the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma, County Arizona.

Exhibit B to Special Warranty Deed

Grantor herein reserves an Easement for Aesthetic Enhancements and the right to operate, repair, replace (with the same style, size and materials), maintain, and remove aesthetic features, utility lines and appurtenant lines and/or facilities from the subject real property; and to trim or remove any obstructions and impediments that may interfere with the construction or endanger the operation of the aforementioned lines and/or facilities, with access to and egress from the easement, to permit normal operations in connection with said lines, aesthetic features, and/or facilities, and to permit the installation of the wires, fixtures and appurtenances, new or additional aesthetic features, conduits, or cables of any other utility company within the boundaries of this easement as shown on the PMG / CITY OF YUMA LOT TIE / LOT SPLIT, according to Book _____ of Plats, page _____, records of Yuma County Arizona being located in the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma, County Arizona.

EXCEPT that portion abandoned by the City of Yuma, Arizona, a municipal corporation of the State of Arizona in instrument recorded in Document No. 2018-_____.

Exhibit 9
SPECIAL WARRANTY DEED
PMG Partnership, L.L.C. to City of Yuma

RECORDING REQUESTED BY
City of Yuma
AND WHEN RECORDED MAIL TO:

City of Yuma
c/o Right-of-Way Agent
One City Plaza
Yuma, Arizona 85364

ESCROW NO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Special Warranty Deed

For the consideration of Ten Dollars, and other valuable considerations, **PMG Partnership, L.L.C.**, an Arizona limited liability company (**Grantor**) does hereby grant and convey to **City of Yuma**, an Arizona municipal corporation (**Grantee**), all of its rights title and interest in the following real property situated in **Yuma** County, Arizona:

See Exhibit A attached hereto and by this reference made a part hereof.

Exempt from Affidavit per ARS 11-1134 B 3

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record. Grantor warrants title against acts of Grantor herein and no other, subject to the matters set forth above.

Dated _____, 2018.

Grantor:

PMG Partnership L.L.C.

Thomas J. Pancrazi
Manager

Mark R. Pancrazi
Manager

Acknowledgements

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, by Thomas J. Pancrazi, Manager, PMG Partnership, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

My Commission Expires: _____
Notary

State of Arizona)
) ss
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, by Mark R. Pancrazi, Manager, PMG Partnership, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

My Commission Expires: _____
Notary

Legal Description Verified by City Engineer	
Date	

Acceptance

Accepted and approved this _____ day of _____, 201____

City of Yuma

By: _____
Gregory K. Wilkinson
City Administrator

Attest:

Approved as to Form:

By: _____
Lynda L. Bushong
City Clerk

By: _____
Richard W. Files
City Attorney

**Exhibit A to Special Warranty Deed
Legal Description Parcel C**

Parcel C, PMG / CITY OF YUMA LOT TIE / LOT SPLIT, according to Book _____ of Plats, page _____, records of Yuma County Arizona being located in the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma, County Arizona.

Exhibit 10
Reciprocal Access and Circulation Easement

When recorded, mail to:

**City Attorney
City of Yuma
One City Plaza
Yuma, Arizona 85364**

RECIPROCAL ACCESS AND CIRCULATION EASEMENT
(PMG Partnership and City of Yuma)

THIS RECIPROCAL ACCESS AND CIRCULATION EASEMENT (“**Easement**”) is entered into this _____ day of _____, 2018, by and between PMG Partnership, L.L.C., an Arizona limited liability company (“**PMG**”), and the City of Yuma, an Arizona municipal corporation (“**City**”). Collectively, PMG and the City are referred to herein as the “**Parties**” or individually as a “**Party**.”

RECITALS

WHEREAS, PMG and the City own adjacent properties at the northeast corner block of 16th Street and 4th Avenue within the City of Yuma and desire to provide for a Reciprocal Access and Circulation Easement (“**Reciprocal Easements**”) that benefits each of the described parcels of real property owned by each of the Parties; and,

WHEREAS, PMG is the owner of a fee simple estate in certain parcels of real property more particularly described as “**Parcel A**” and “**Parcel B**” of the PMG/City of Yuma Lot Tie/Lot Split (“**Lot Tie/Lot Split**”), recorded with the Yuma County Recorder’s Office on _____, 2018 at Document No. _____, a copy of which is attached hereto as Exhibit A; and,

WHEREAS, the City is the owner of a fee simple estate in that certain parcel of real property more particularly described as “**Parcel C**” and “**Parcel D**” on the Lot Tie/Lot Split; and,

WHEREAS, each of Parcel A, Parcel B, Parcel C and Parcel D (collectively, the “**Parcels**”) and the access and circulation easement alignments are depicted on the Lot Tie/Lot Split; and,

WHEREAS, the intent of these Reciprocal Easements is to create certain easement rights for the use, construction, operation, and maintenance of the Parcels and certain access and circulation improvements now or hereafter located on the Parcels;

NOW THEREFORE, in consideration of the mutual benefits to be realized by such joint Reciprocal Easements, the mutual agreements set forth herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree

and grant to each other the Reciprocal Easements as follows:

1. Grants of Reciprocal Easements.

1.1 Grant of Reciprocal Access and Circulation Easement on Parcel C. The City, as the owner of Parcel C, hereby grants and conveys to itself, and the owners of Parcel A Parcel B and Parcel D, and their respective successors and assigns, and their tenants, customers, employees, and invitees (collectively, the “**Permittees**”), perpetual, non-exclusive easements appurtenant on, over, across, and through those portions of Parcel C designed for such uses, as the same may be from time to time created, eliminated, modified, relocated or expanded, as identified on Exhibit A as “**Reciprocal Easement 1**” (the servient estate), for the purposes of: pedestrian and vehicular ingress, egress and access to and from the Parcels (but not for parking) in accordance to the terms hereof, for the use and benefit of Parcel A, Parcel B and Parcel D (each, a dominant estate).

1.2 Grant of Reciprocal Access and Circulation Easement on Parcel A. PMG, as the owner of Parcel A, hereby grants and conveys to itself, and the owners of Parcel B and Parcel C, and their respective successors, assigns, and Permittees, perpetual, non-exclusive easements appurtenant on, over, across, and through those portions of Parcel A designed for such uses, as the same may be from time to time created, eliminated, modified, relocated or expanded, as identified on Exhibit A as “**Reciprocal Easement 2**” (the servient estate), for the purposes of pedestrian and vehicular ingress, egress and access to and from the Parcels (but not for parking), in accordance to the terms hereof, for the use and benefit of Parcel B and Parcel C (each, a dominant estate).

2. No Parking Easements. Notwithstanding any provision herein to the contrary, neither Party has granted or intends to grant, to the other Party or their successors, assigns, or Permittees, any easement for parking, it being the intention of each Party that it and its Permittees shall only be entitled to park in the parking spaces located on such Party’s own Parcel.

3. No Merger. The Parties do not intend for merger of title to apply to any of the grants of Easements. The servient estate easements shall not merge with title to the dominant fee estate by reason of the fact that both the dominant and servient estates may be, either directly or indirectly, held by or for the account of any person or entity, nor shall there be a merger by reason of the fact that all or part of the dominant fee estate may be conveyed or held by the person or entity benefitting from the servient estate.

4. Improvements. Except as otherwise provided herein or in that certain *Real Property Exchange, Settlement and Redevelopment Agreement* between PMG and the City recorded as Fee # _____ (concerning relocation of certain driveways, curb, gutter and sidewalks on Parcel C in Section 12.2), each Party shall, at such Party’s own cost and expense, relative to such Party’s respective property, design, construct, or relocate any entrances, exits, driveways and access ways (collectively “**Improvements**”) as are reasonably necessary to use, own, occupy, lease, and operate such Party’s respective property for any lawful purpose consistent with the terms of this Agreement and at the locations set forth in Exhibit A provided that such Party’s activities in constructing or relocating any Improvements shall not interfere with the other Party’s use and enjoyment of such Improvements other than reasonable

inconvenience during such construction and/or relocation activities, and further provided that the access rights created hereunder shall not be impaired, jeopardized or limited as a result of such Party's construction and relocation activities. Each Party agrees to use reasonable efforts to minimize the impact of such construction and relocation activities on the other Party's use and enjoyment of such Improvements. Any Improvements constructed on either Party's property shall be constructed, in a good and workmanlike manner and in accordance with applicable federal, state and local laws, rules, regulations, and ordinances.

5. Non-exclusive Use. The Reciprocal Easements benefitting the dominant estate(s) are non-exclusive and each owning party retains the right at all times to use the servient estate burdened by the Reciprocal Easements, and to grant others the right to use, own, occupy, and lease the servient estate for any lawful purpose not inconsistent with the rights granted to the other Parties under this Agreement and not unreasonably interfering with the other Parties' enjoyment of the benefits of its Reciprocal Easements. Each Party, in exercising its rights under the Reciprocal Easements, shall use reasonable care to minimize disruption to the property burdened by such Easements.

6. No Obstructions: Except as may be reasonably necessary to perform the construction, relocation and maintenance obligations set forth herein, or temporary construction, relocation and maintenance on the dominant estates, no fence, wall, structure, building or other barrier or obstruction, permanent or temporary, shall be placed on or around each Party's respective driveways, entrances, exits or access ways in a manner that might interfere with the purpose of the Reciprocal Easements or that might interfere with the rights granted herein.

7. Maintenance of Improvements: Each Party, at its own cost and expense, shall maintain and repair the Improvements located on such Party's property in a good, safe and reasonably neat, attractive and manicured condition.

8. Indemnities. Each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party (the "**Indemnified Party**") from and against any loss, claim, damage, expense or liability, attorneys' fees and costs, incurred by the Indemnified Party, including claims by any third party where the event that led to the claim occurs on the servient or dominant estate owned by the Indemnifying Party.

9. Breach; Remedies. In the event of any breach of any term or provision hereof, if such breach is not cured within fifteen (15) days after written notice of the breach is delivered to the defaulting Party, such breach shall constitute a default and the non-defaulting Party shall have any and all rights and remedies available at law or in equity, including, without limitation, the right to an injunction, the right to cure the default at the expense of the defaulting Party, and the right to receive and recover damages. The Parties waive any right to seek consequential, punitive, multiple, exemplary or any damages other than actual damages.

10. General.

10.1 Notice. All notices, consents, requests, instructions, approvals, or other communications required or permitted to be given hereunder, shall be in writing, and shall become effective upon receipt if delivered in person, or 72 hours after such are deposited in the United States mail, postage prepaid, addressed as shown below, or to such other address as any

Party may, from time to time, designate in writing.

If to PMG: PMG Partnership
Attn: Thomas Pancrazi
350 W. 16th Street, Suite 332
Yuma, Arizona 85364

If to City: City of Yuma
Attn: City Administrator
One City Plaza
Yuma, Arizona 85364

10.2 Interpretation. The captions of the Sections of this Easement are for convenience and identification only and shall not govern, limit, define or influence the interpretation hereof. This Agreement is the result of negotiations between the Parties and shall not be construed for or against either Party regardless of which Party drafted this Agreement or any portion thereof.

10.3 Not a Public Dedication. Nothing contained in this Easement shall be deemed to be a gift or dedication of any portion of either Party's respective property to the general public or for any public purpose whatsoever. This Easement shall be strictly limited to and for the purposes expressed herein.

10.4 Severability. Invalidation of any of the restrictions or other provisions of this Easement shall in no way affect any of the other restrictions or provisions of this Easement.

10.5 Covenants to Run with Land. All provisions of this Easement touch and concern each Party's respective Property and shall run with the land and be binding upon and inure to the benefit of the heirs, assigns, successors and personal representatives of the Parties.

10.6 No Partnership, Third Person. Nothing contained in this Easement shall create any partnership, joint venture or other similar arrangement between PMG and the City. No term or provision is intended to, or shall, be for the benefit of any person, firm, corporation or other entity not a Party hereto, and no such third party shall have any right or cause of action hereunder.

10.7 Entire Agreement. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are hereby superseded and merged herein.

10.8 Termination Amendment. This Easement may be amended, modified, terminated, or cancelled, in whole or in part, only by the agreement of all of the owners of record of Parcel A, Parcel B, Parcel C and Parcel D (each a "**Required Owner**" and collectively the "**Required Owners**"); provided, however, that Parcel D shall not be deemed a Required Owner unless Reciprocal Easement 1 is the subject of, or affected by, such amendment, modification or termination. No such amendment, termination or cancellation shall be effective until a written instrument settling forth its terms has been executed, acknowledged and recorded by the Required Owners in the records of Yuma County, Arizona. No such amendment,

termination or cancellation shall affect the rights of any mortgagee under a mortgage or any trustee or beneficiary under a deed of trust constituting a lien on Parcel A, Parcel B or Parcel C (collectively, a “**Mortgagee**”), and recorded in the records of Yuma County, Arizona at the time of such amendment, termination or cancellation, unless such Mortgagee consents thereto, which consent will not be unreasonably withheld or delayed. No person other than the Required Owners and such Mortgagees shall be required to join in the execution of or consent to any Amendment.

10.9 Further Assurances. PMG and the City shall execute and deliver all such documents and perform all such acts as reasonably requested by the other Party from time to time to carry out the matters contemplated by this Easement.

10.10 Incorporation of Recitals, Exhibits and References to Documents by Fee Number: All recitals set forth above, sections of documents referred to by Yuma County Recorder’s Fee number, and all exhibits attached hereto are incorporated by reference and restated as though set forth in full.

10.11 Arizona Law; Venue: this Easement shall be governed by the laws of the State of Arizona. The venue for any dispute shall be brought in Yuma County, Arizona.

10.12 Authority. Each Party acknowledges and warrants that it is fully authorized and empowered to execute this Easement by and through the individuals executing below.

10.13 Time of Essence. Time shall be of the essence in performance of the covenants and obligations hereof.

10.14 Effective Date. This Easement shall be effective upon the later of recording or the completion of the performance of the paving obligations of PMG as set forth Section 12 of the *Real Property Exchange, Settlement and Redevelopment Agreement* (“**Effective Date**”).

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties have executed this Easement as of the date first above written.

City of Yuma, an Arizona
municipal corporation

PMG Partnership L.L.C.,
an Arizona limited liability company

By: _____
Gregory K. Wilkinson
City Administrator

By: _____
Thomas J. Pancrazi
Manager

By: _____
Mark R. Pancrazi
Manager

ATTEST:

By: _____
Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

By: _____
Richard W. Files
City Attorney

ACKNOWLEDGEMENTS

Acknowledgment by City

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Gregory K. Wilkinson, the City Administrator of the City of Yuma, on behalf of the City.

Notary Public

My Commission Expires:

Acknowledgment by PMG

State of Arizona)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Thomas J. Pancrazi, Manager, PMG Partnership, L.L.C. an Arizona limited liability company on behalf of the company.

Notary Public

My Commission Expires:

State of Arizona)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Mark R. Pancrazi, Manager, PMG Partnership, L.L.C. an Arizona limited liability company on behalf of the company.

Notary Public

My Commission Expires:

Exhibit 11
Drainage Easement

When recorded, mail to:

**City Attorney
City of Yuma
One City Plaza
Yuma, Arizona 85364**

DRAINAGE EASEMENT
(PMG Partnership and City of Yuma)

THIS DRAINAGE EASEMENT (“**Easement**”) is entered into this _____ day of _____, 2018, by and between PMG Partnership, L.L.C., an Arizona limited liability company (“**PMG**”), and the City of Yuma, an Arizona municipal corporation (“**City**”). Collectively, PMG and the City are referred to herein as the “**Parties**” or individually as a “**Party**.”

RECITALS

WHEREAS, PMG is the owner of a fee simple estate in certain parcels of real property more particularly described as “**Parcel A**” and “**Parcel B**” of the PMG/City of Yuma Lot Tie/Lot Split (“**Lot Tie/Lot Split**”), recorded with the Yuma County Recorder’s Office on _____, 2018 at Document No. _____; and,

WHEREAS, the City is the owner of a fee simple estate in certain parcels of real property more particularly described as “**Parcel C**” and “**Parcel D**” of the PMG/City of Yuma Lot Tie/Lot Split (“**Lot Tie/Lot Split**”), recorded with the Yuma County Recorder’s Office on _____, 2018 at Document No. _____; and,

WHEREAS, each of Parcel A, Parcel B and Parcel C (independently referred to herein as a “**Parcel**”, collectively, the “**Parcels**”) and Parcel D (“**Retention Basin**”) and the Drainage Improvements, more particularly described hereinafter, and related appurtenances and alignments are depicted on the Drainage Plan attached hereto as Exhibit A; and,

WHEREAS, City and PMG desire to provide for a perpetual non-exclusive permanent drainage easement (“**Drainage Easement**”) for the retention, detention and conveyance of stormwater runoff and drainage from the Parcels, in, on, to, through, over, under and across the Retention Basin (the “**Drainage Improvements**”).

NOW THEREFORE, in consideration of the mutual benefits to be realized by such Drainage Easement, the mutual agreements set forth herein, and other good and valuable considerations,

the receipt and sufficiency of which are hereby acknowledged, the City agrees and grants to the owners of Parcel A, Parcel B and Parcel C (independently referred to herein as an “**Owner**”, and collectively “**Owners**”) a Drainage Easement pursuant to the following terms and conditions:

1. Grant of Drainage Easement. City hereby grants to Owners and their respective transferees and successors or assigns, a perpetual, non-exclusive Drainage Easement for the retention, detention and conveyance of stormwater runoff and drainage from the Parcels in, on, to, through, over, under and across the Retention Basin and, provided that the Parcels’ stormwater runoff meets EPA and ADEQ standards, as the same may be amended from time-to-time, the City will permit and accept stormwater runoff from the Parcels into the Retention Basin (the servient estate) in accordance to the terms hereof, for the use and benefit of Parcel A, Parcel B and Parcel C (each, a dominant estate).

2. Access. The City will control access, management and use of all City-owned storm water retention facilities. Except in an emergency, Owners and their respective agents, successors, and assigns, shall coordinate any access to the Retention Basin for purposes of inspection, repair and maintenance of an Owner’s Drainage Improvements located on or in the Retention Basin. Upon issuance of an encroachment permit or with other City consent, Owners shall have the right to enter upon the Retention Basin to survey, construct, reconstruct, operate, use, maintain, repair, upgrade and replace the Drainage Improvements made within the Drainage Easement, and to remove objects interfering therewith.

3. Construction and Maintenance of Drainage Improvements. After obtaining an encroachment permit and upon City approval of the Stormwater Conveyance System plans, PMG, at its sole cost and expense, shall construct the Drainage Improvements shown on Exhibit A in accordance with the provisions of that certain *Real Property Exchange, Settlement and Redevelopment Agreement* between PMG and the City recorded as Fee # _____ (concerning construction of the stormwater retention, drainage and conveyance system on the Parcels in Section 12.1). Thereafter, each Owner, and their respective successors and assigns, shall be responsible for, and bear all future operation, maintenance and repair costs for those portions of the Drainage Improvements that serve to drain their respective Parcels. Notwithstanding any provision herein to the contrary, neither City nor any Owner shall be permitted to modify or demolish any portion of the Drainage Improvements if such modification or demolition would materially and adversely affect drainage from, onto, over or through an adjacent Owner’s Parcel or the Retention Basin.

3. No Obstructions. Except as may be reasonably necessary to perform the construction and maintenance obligations under the terms set forth herein, or temporary construction, relocation and maintenance on a dominant estate, City and Owners, for themselves and their respective transferees and successors or assigns, covenant and agree that no building, structure, fill of soils or other materials, or other above or below ground obstruction that will interfere with the established drainage or the purposes of this Drainage Easement, will be placed, erected, installed or permitted upon any Parcel or the Retention Basin without written authorization of City and Owners.

4. No Merger. The Parties do not intend for merger of title to apply to any of the grants of Easements. The servient estate easements shall not merge with title to the dominant fee

estate by reason of the fact that both the dominant and servient estates may be, either directly or indirectly, held by or for the account of any person or entity, nor shall there be a merger by reason of the fact that all or part of the dominant fee estate may be conveyed or held by the person or entity benefitting from the servient estate.

5. Indemnities. Each Party (the “**Indemnifying Party**”) shall indemnify, defend and hold harmless the other Party (the “**Indemnified Party**”) from and against any loss, claim, damage, expense or liability, including attorneys’ fees and costs, incurred by the Indemnified Party and any third party, on the servient or dominant estate owned by the Indemnifying Party. City shall not be liable to, nor shall the City’s acceptance of stormwater from the Redevelopment Properties give rise to any cause of action against the City by the owner of Parcel A, Parcel B or Parcel C, or any of their respective tenants or sub-tenants except for gross negligence on the part of the City.

6. Breach; Remedies. In the event of any breach of any term or provision hereof, if such breach is not cured within fifteen (15) days after written notice of the breach is delivered to the defaulting Party, such breach shall constitute a default and the non-defaulting Party shall have any and all rights and remedies available at law or in equity, including, without limitation, the right to an injunction, the right to cure the default at the expense of the defaulting Party, and the right to receive and recover damages. The Parties waive any right to seek consequential, punitive, multiple, exemplary or any damages other than actual damages.

7. General.

7.1 Notice. All notices, consents, requests, instructions, approvals, or other communications required or permitted to be given hereunder, shall be in writing, and shall become effective upon receipt if delivered in person, or 72 hours after such are deposited in the United States mail, postage prepaid, addressed as shown below, or to such other address as any Party may, from time to time, designate in writing.

If to PMG: PMG Partnership
Attn: Thomas Pancrazi
350 W. 16th Street, Suite 332
Yuma, Arizona 85364

If to City: City of Yuma
Attn: City Administrator
One City Plaza
Yuma, Arizona 85364

7.2 Interpretation. The captions of the Sections of this Easement are for convenience and identification only and shall not govern, limit, define or influence the interpretation hereof. This Agreement is the result of negotiations between the Parties and shall not be construed for or against either Party regardless of which Party drafted this Agreement or any portion thereof.

7.3 Not a Public Dedication. Nothing contained in this Easement shall be deemed to be a gift or dedication of any portion of either Party’s respective property to the general

public or for any public purpose whatsoever. This Easement shall be strictly limited to and for the purposes expressed herein.

7.4 Severability. Invalidation of any of the restrictions or other provisions of this Easement shall in no way affect any of the other restrictions or provisions of this Easement.

7.5 Covenants to Run with Land. All provisions of this Easement touch and concern each Party's respective Property and shall run with the land and be binding upon and inure to the benefit of the heirs, assigns, successors and personal representatives of the Parties.

7.6 No Partnership, Third Person. Nothing contained in this Easement shall create any partnership, joint venture or other similar arrangement between PMG and the City. No term or provision is intended to, or shall, be for the benefit of any person, firm, corporation or other entity not a Party hereto, and no such third party shall have any right or cause of action hereunder.

7.7 Entire Agreement. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are hereby superseded and merged herein.

7.8 Termination Amendment. This Easement may be amended, modified, terminated, or cancelled, in whole or in part, only by the agreement of all of the owners of record of Parcel A, Parcel B, Parcel C, and Parcel D (the "**Required Owners**"). No such amendment, termination or cancellation shall be effective until a written instrument setting forth its terms has been executed, acknowledged and recorded by the Required Owners in the records of Yuma County, Arizona. No such amendment, termination or cancellation shall affect the rights of any mortgagee under a mortgage or any trustee or beneficiary under a deed of trust constituting a lien on Parcel A, Parcel B, Parcel C, or Parcel D (collectively, a "**Mortgagee**"), and recorded in the records of Yuma County, Arizona at the time of such amendment, termination or cancellation, unless such Mortgagee consents thereto, which consent will not be unreasonably withheld or delayed. No person other than the Required Owners and such Mortgagees shall be required to join in the execution of or consent to any Amendment.

7.9 Further Assurances. PMG and the City shall execute and deliver all such documents and perform all such acts as reasonably requested by the other Party from time to time to carry out the matters contemplated by this Easement.

7.10 Incorporation of Recitals, Exhibits and References to Documents by Fee Number. All recitals set forth above, sections of documents referred to by Yuma County Recorder's Fee number, and all exhibits attached hereto are incorporated by reference and restated as though set forth in full.

7.11 Arizona Law; Venue. This Easement shall be governed by the laws of the State of Arizona. The venue for any dispute shall be brought in Yuma County, Arizona.

7.12 Authority. Each Party acknowledges and warrants that it is fully authorized and empowered to execute this Easement by and through the individuals executing below.

7.13 Time of Essence. Time shall be of the essence in performance of the covenants and obligations hereof.

7.14 Effective Date. This Easement shall be effective upon the later of recording or the completion of the performance of the stormwater retention, drainage and conveyance system obligations of PMG as set forth Section 12 of the *Real Property Exchange, Settlement and Redevelopment Agreement* (“**Effective Date**”).

IN WITNESS WHEREOF, the Parties have executed this Easement as of the date first above written.

City of Yuma, an Arizona
municipal corporation

PMG Partnership L.L.C.,
an Arizona limited liability company

By: _____
Gregory K. Wilkinson
City Administrator

By: _____
Thomas J. Pancrazi
Manager

By: _____
Mark R. Pancrazi
Manager

ATTEST:

By: _____
Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

By: _____
Richard W. Files
City Attorney

ACKNOWLEDGEMENTS

Acknowledgment by City

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Gregory K. Wilkinson, the City Administrator of the City of Yuma, on behalf of the City.

Notary Public

My Commission Expires:

Acknowledgment by PMG

State of Arizona)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Thomas J. Pancrazi, Manager, PMG Partnership, L.L.C. an Arizona limited liability company on behalf of the company.

Notary Public

My Commission Expires:

State of Arizona)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Mark R. Pancrazi, Manager, PMG Partnership, L.L.C. an Arizona limited liability company on behalf of the company.

Notary Public

My Commission Expires:

Exhibit A
to
Drainage Easement
Drainage Plan

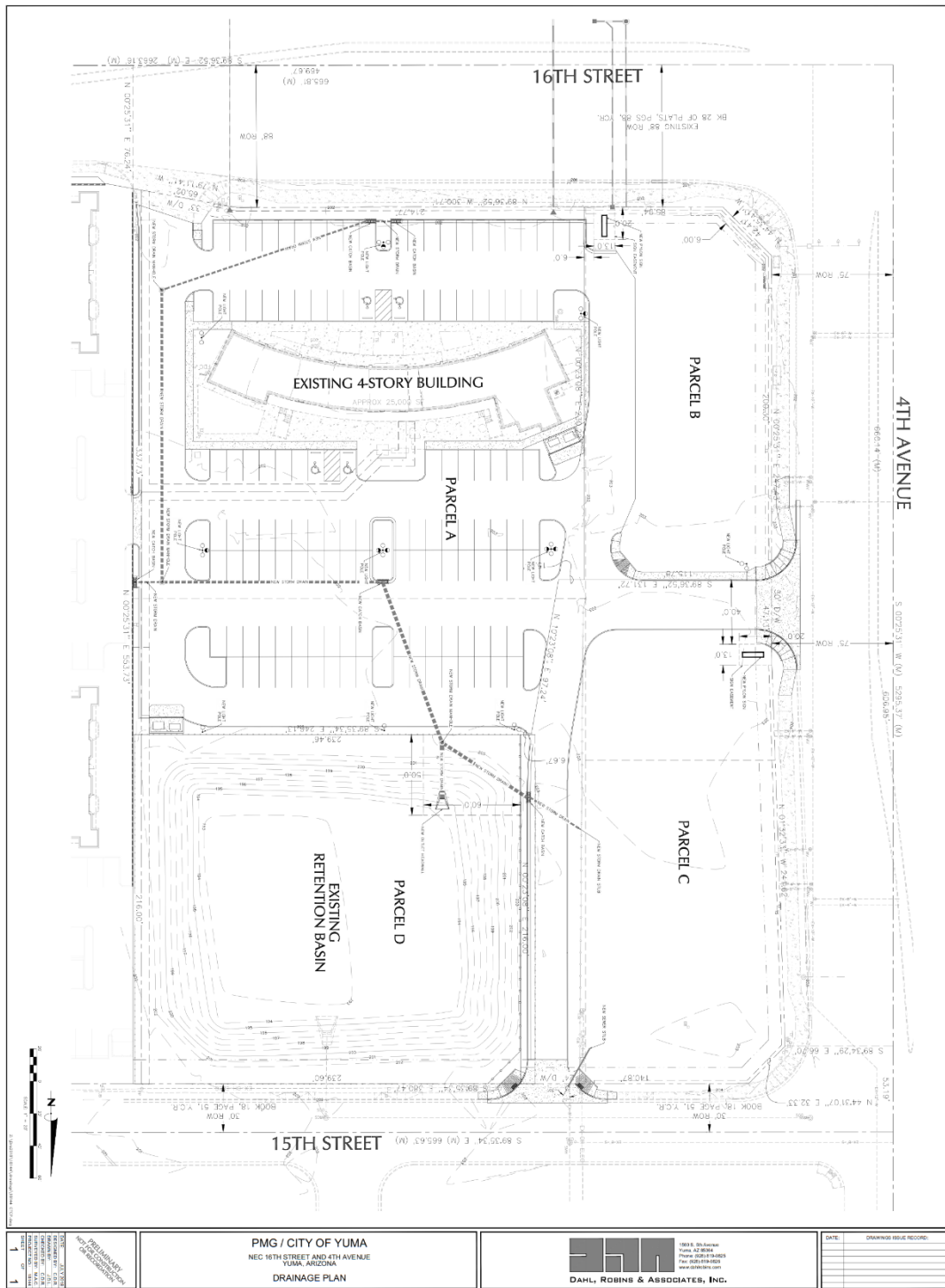


Exhibit 12
Sign Easement

RECORDING REQUESTED BY
City of Yuma
AND WHEN RECORDED MAIL TO:

City of Yuma
c/o Right-of-Way Agent
One City Plaza
Yuma, Arizona 85364

ESCROW NO: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PYLON SIGN EASEMENT
AND
MAINTENANCE AGREEMENT

BY THIS PYLON SIGN EASEMENT AND MAINTENANCE AGREEMENT (“**Agreement**”) entered into this ____ day of _____, 2018, PMG PARTNERSHIP, LLC, an Arizona limited liability company (“**PMG**”) and the CITY OF YUMA, an Arizona municipal corporation (“**City**”) (PMG and City sometimes referred to hereinafter individually as a “**Party**” and collectively as the “**Parties**”) state, confirm and agree as follows:

RECITALS

A. PMG owns that certain real property located in the City of Yuma, Yuma County, Arizona, more particularly described as “**Parcel A**” and “**Parcel B**” of the PMG/City of Yuma Lot Tie/Lot Split (“**Lot Tie/Lot Split**”), recorded with the Yuma County Recorder’s Office on _____, 2018 at document No. _____, a copy of which is attached hereto as Exhibit A, (collectively the “**Property**”).

B. City owns that certain real property located in the City of Yuma, Yuma County, Arizona, more particularly described as “**Parcel C**” of the Lot Tie/Lot Split.

C. PMG, at its sole cost and expense, intends to install two pylon sign structures and all utility lines appurtenant thereto (each a “**Pylon Sign**”; collectively, the “**Pylon Signs**”) in accordance with the specifications set forth in Exhibit B attached hereto and incorporated herein by this reference, on that portion of Parcel B and Parcel C designated as a “**Sign Easement Area**” shown on the Lot Tie/Lot Split, upon which certain identification panel(s) for Occupants of Parcel A, Parcel B, or Parcel C may be installed, replaced, maintained and operated. As used herein, “**Occupant**” shall mean any owner or tenant of Parcel A, Parcel B, or Parcel C.

AGREEMENT

1. SIGN EASEMENT.

1.1 Grant of Easement. PMG hereby grants and conveys to City and City hereby grants and conveys to PMG, and their respective successors, and assigns as the owners of Parcel A, Parcel B and Parcel C, respectively, a perpetual, non-exclusive easement on, over, under, through and across the Sign Easement Area for the installation, operation, maintenance, repair and replacement of the Pylon Signs and all utility lines appurtenant thereto (the “**Sign Easement**”). The Sign Easement granted herein shall include reasonable access on, over, through and across the Sign Easement Area, Parcel B, and Parcel C by any Occupant of Parcel A, Parcel B, or Parcel C that is granted a license to place sign panels on a Pylon Sign for the purpose of installing, replacing and maintaining such Occupant’s sign panels (such Occupant being referred to hereinafter as a “**Panel Beneficiary**”; collectively as the “**Panel Beneficiaries**”). The foregoing Sign Easement, together with all rights and privileges specified herein, shall be for the benefit Parcel A, Parcel B and Parcel C, and shall be binding on, enforceable against and burden upon Parcel B and Parcel C.

1.2 Construction; Ownership. The initial design specifications for the Pylon Signs are set forth in Exhibit B, and any change to the initial design of any Pylon Sign structures shall be subject to the prior written approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed. The initial cost of constructing and installing the Pylon Sign structures, blank sign fascia and all utility lines appurtenant thereto, shall be paid by PMG. The construction and installation of the Pylon Sign structures shall be governed by that certain *Real Property Exchange, Settlement and Redevelopment Agreement* between PMG and the City recorded as Fee # _____ (“**Development Agreement**”). Upon construction, the Pylon Signs, and all utility lines appurtenant thereto, shall at all times remain the property of the owner of Parcel A. PMG at its sole cost and expense, subject to reimbursement of the Panel Beneficiaries’ Allocable Share, as defined in Section 1.4 below, shall be responsible for the ongoing maintenance, repair, replacement, liability insurance, taxes, and operation of the Pylon Signs. Once constructed, the Pylon Sign structures may not be taken down, altered or modified without the prior written approval of the owners of Parcel A, Parcel B and Parcel C, except as may be reasonably necessary to effect the ongoing maintenance, repair, replacement and operation thereof.

1.3 Grant of License and Panel Placement Designations. Upon Parcel C’s payment of its Allocable Share of the construction and installation costs of the Pylon Signs, PMG shall grant to the Owner of Parcel C, a perpetual, exclusive license (“**License**”) to install sign panels on the top designated panel cabinet space (both sides of structure) of the Pylon Sign installed on Parcel C and on the second position designated panel cabinet space (both sides of the structure) of the Pylon Sign installed on Parcel B, as shown on Exhibit B (collectively the “**Parcel C Sign Cabinets**”). The License shall be subject to Parcel C’s payment of its Allocable Share of the ongoing maintenance and operation of the Pylon Signs in accordance with the provisions Section 1.4 below and such License shall inure to the benefit of any Occupant of Parcel C that is granted a license by the owner of Parcel C

to place sign panels in the Parcel C Sign Cabinets. Notwithstanding the foregoing, PMG shall reserve the right to use the Parcel C Sign Cabinets until such time as PMG has received Parcel C's Allocable Share of the construction installation costs of the Pylon Signs. PMG, its successors and assigns, shall at all times retain the right to grant a license to any Occupant to install, sign panels on all other panel cabinet spaces located on the Pylon Signs (collectively the "**PMG Sign Cabinets**").

1.4 Installation of Sign Panels and Panel Beneficiaries' Allocable Share. Subject to the provisions of Section 1.3 above, PMG reserves the right to contract with Occupants for the placement of sign panels on the PMG Sign Cabinets under such terms and conditions as PMG deems reasonable, including, but not limited to construction specifications, size, color, location, etc., and to collect all Panel Beneficiaries' Allocable Share of the cost of constructing and maintaining the Pylon Signs. Each Panel Beneficiary attaching an identification panel to a Pylon Sign shall, at its sole cost and expense, (i) obtain all permits and approvals required for such installation, (ii) fabricate its identification panel(s), install the panel(s) and connect the panel(s) to the power source provided, and (iii) install, maintain and/or replace the identification panel(s), including any backlit lighting, in a safe condition and good state of repair in compliance with the terms of this Agreement and all Governmental Regulations. As used herein "**Governmental Regulations**" shall mean any or all laws, statutes, ordinances, codes, decrees, rulings, regulations, writs, injunctions, orders, rules, or conditions of approval or authorization of any governmental entity, agency or political subdivision whether now in force or which may hereafter be in force, including, but not limited to those rights granted under the terms of the Development Agreement. Each of the Panel Beneficiaries' rights and obligations with respect to the Pylon Signs shall be based on the portion of panel area assigned to each, even if such identification panel area is not used (the "**Allocable Share**"). Accordingly, the cost of maintaining the Pylon Signs shall be allocated to each Panel Beneficiary in its Allocable Share of space occupied on the sign fascia by dividing the approximate gross square feet of such Panel Beneficiary's sign panel located thereupon by the total gross square feet of the entire Pylon Sign fascia; provided, however, said maintenance obligations shall not include the obligation to maintain or replace sign panels of any other Panel Beneficiary. If a Pylon Sign, or an identification panel thereon, is damaged by PMG, City, a Panel Beneficiary, or an Occupant, or their respective agents, contractors, employees or representatives, or anyone claiming by, through or under it, then such party, at its sole cost and expense, shall immediately cause the damage to be repaired. If a Pylon Sign, or an identification panel thereon, is damaged by a third-party, then the Panel Beneficiary, at its sole cost and expense, shall immediately cause the damage to be repaired. No signage (temporary or otherwise) with respect to persons who are not Occupants of Parcel A, Parcel B, or Parcel C shall be permitted on any Pylon Sign.

1.5 No Obstructions. Except as may be reasonably necessary to perform the construction, installation, maintenance, operation, repair and replacement obligations set forth herein, no fence, wall, structure, building, landscaping or other barrier or obstruction, permanent or temporary, shall be placed on or around the Sign Easement Area or the Pylon Signs in any manner that might block the visibility of any sign panel affixed thereon, interfere with the purpose of the easements and licenses created hereunder or that might interfere with the rights granted herein.

1.6 Non-Exclusive Use. Except for the exclusive License granted to City in Section 1.3 above, PMG's and City's rights under this Agreement benefiting its respective Property are non-exclusive and each party retains the right at all times to use its Property burdened by the Sign Easement, and to grant others the right to use, own, occupy, lease and operate its Property, for any lawful purpose not inconsistent with the rights granted to the other Party under this Agreement and not unreasonably interfering with the other Party's enjoyment of the benefits of its Sign Easement. Each Party, in exercising its rights under this Agreement, shall use reasonable care to minimize disruption to the Property burdened by the Sign Easement.

2. INDEMNITIES.

2.1 Indemnities. Each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party (the "**Indemnified Party**") from and against any loss, claim, damage, expense or liability, including without limitation reasonable attorneys' fees and costs, imposed upon or suffered by the Indemnified Party as a result of (i) the Indemnifying Party's breach or default under the terms of this Agreement, or (ii) the Indemnifying Party's exercise of the Sign Easement rights granted herein.

2.2 Remedies Upon Default. In the event of any breach or default of any term or provision hereof, if such breach or default is not cured within thirty (30) days after written notice thereof is given to the defaulting Party by the non-defaulting Party, in the case of monetary default; provided, however, that if such default cannot reasonably be cured within thirty (30) days, then the breaching Party shall not be deemed in default if the defaulting Party commences to cure such breach or default within said thirty (30) days and thereafter diligently pursues such curing to completion. The non-defaulting Party shall have any and all rights and remedies available pursuant to this Agreement, or existing at law or in equity, including, without limitation, the right to an injunction, the right to cure the default at the expense of the defaulting Party and the right to receive and recover damages.

2.3 Cumulative Remedies. The remedies permitted or available pursuant to the provisions of this Agreement, at law or in equity, shall be cumulative.

2.4 Attorneys' Fees and Costs. In the event suit is brought for the enforcement of, or the declaration of rights pursuant to, this Agreement or as the result of any alleged breach of any restriction, covenant or other provision of this Agreement, the prevailing Party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees and costs (including fees of in-house counsel), from the non-prevailing Party, and any judgment or decree rendered in such proceedings shall include an award thereof. The amount of attorneys' fees and costs shall be set by the court and not a jury.

2.5 Default Interest. Any sums not paid when due under this Agreement shall bear interest from the date due until paid in full at the rate of ten percent (10%) per annum.

2.6 Mortgage Protection. Breach of any restriction or other provision of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of the restrictions and other provisions of this Agreement

shall be binding and effective against any owner whose title is acquired by foreclosure, trustee's sale or otherwise.

3. GENERAL.

3.1 Notices. No notice, consent, approval or other communication provided for herein or given in connection herewith shall be validly given, made delivered or served unless it is in writing and delivered personally, sent by overnight courier, or sent by registered or certified United States mail, postage prepaid, with return receipt requested, to:

If to City: City of Yuma
 Attn: City Administrator
 One City Plaza
 Yuma, Arizona 85364
 Tel: 928-373-5011

If to PMG: PMG Partnership, LLC
 Attn: Thomas J. Pancrazi
 350 W. 16th Street, Suite 332
 Yuma, Arizona 85364
 Tel: 928-782-0000

3.2 Interpretation. The captions of the Sections of this Agreement are for convenience and identification only and shall not govern, limit, define or influence the interpretation hereof. This Agreement is the result of negotiations between the Parties and, accordingly, shall not be construed for or against either Party regardless of which Party drafted this Agreement, or any portion thereof.

3.3 Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of either Party's respective Property to the general public or for any public purpose whatsoever and this Agreement shall be strictly limited to and for the purposes expressed herein.

3.4 Severability. Invalidation of any of the restrictions or other provisions of this Agreement shall in no way affect any of the other restrictions or provisions of this Agreement.

3.5 Effective Date. This Agreement shall take effect only upon its recordation in the Official Records of Yuma County, Arizona.

3.6 Termination of Liability. Neither Party hereto shall remain liable for any default hereunder occurring after such Party's conveyance of its fee title in such Party's respective Property, and such Party's successor shall be deemed to have assumed all of the duties and obligations arising under this Agreement relative to such assignee's Property.

3.7 Covenants to Run with Land. All provisions of this Agreement touch and concern each Party's respective Property and shall run with the land and be binding upon

and inure to the benefit of the heirs, assigns, successors and personal representatives of the Parties. The Property burdened by a Sign Easement shall be the servient tenement and the Property benefited by a Sign Easement shall be the dominant tenement.

3.8 No Partnership; Third Person. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other similar arrangement between PMG and City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, corporation or other entity not a Party hereto, and no such Party shall have any right or cause of action hereunder.

3.9 Entire Agreement. This Agreement constitutes the entire agreement between and reflects the reasonable expectations of the Parties pertaining to the subject matter hereof.

3.10 Termination; Amendment. This Agreement may be amended, modified, terminated, or canceled, in whole or in part, only by the agreement of all of the owners of record of Parcel A, Parcel B, and Parcel C (the “**Required Owners**”). No such amendment, termination or cancellation shall be effective until a written instrument setting forth the terms of such amendment, termination or cancellation has been executed, acknowledged and recorded by the Required Owners in the records of Yuma County, Arizona.

3.11 Further Assurances. PMG and City shall execute and deliver all such documents and perform all such acts as reasonably requested by the other Party from time to time to carry out the matters contemplated by this Agreement.

3.12 Incorporation of Recitals and Exhibits. All recitals set forth above and all exhibits attached hereto are by this reference incorporated herein and restate as though set forth in full herein.

3.13 Arizona Law; Venue. This Agreement shall be governed by the laws of the State of Arizona. The venue for any dispute under this Agreement shall be brought in Yuma County, Arizona.

3.14 Date of Performance. If the date of performance of any obligation or the last day of any time period provided for herein should fall on a Saturday, Sunday or legal holiday, then said obligation shall be due and owing, and said time period shall expire at 11:59 p.m., on the first day thereafter which is not a Saturday, Sunday or legal holiday.

3.15 No Liens or Encumbrances. Each Party represents to the other that such Party’s Property is free and clear of any liens, encumbrances, mortgages or deeds of trust other than the liens and encumbrances described on Exhibit C for which consent has been given relative to the easement created under this Agreement.

3.16 Taxes. Each Party shall pay in a timely manner all taxes, assessments and other charges for which a lien could be imposed upon the fee interest of each Party’s respective property which would be superior to the rights created by this Agreement.

3.17 Due Authority. Each Party acknowledges and warrants that it is fully authorized and empowered to execute this Agreement by and through the individuals executing below.

3.18 Time of Essence. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

“PMG”

PMG PARTNERSHIP, LLC, an
Arizona limited liability company

By: _____
Thomas J. Pancrazi
Manger

“CITY”

CITY OF YUMA, an Arizona
municipal corporation

By: _____
Gregory K. Wilkinson
City Administrator

ATTEST:

By: _____
Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

By: _____
Richard W. Files
City Attorney

Acknowledgment by City

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Gregory K. Wilkinson, the City Administrator of the City of Yuma, on behalf of the City.

My Commission Expires:

Notary Public

Acknowledgment by PMG

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Thomas J. Pancrazi, the Manager of PMG Partnership, LLC, an Arizona limited liability company, on behalf said limited liability company.

My Commission Expires:

Notary Public

LIENHOLDER'S CONSENT

The undersigned mortgagee of Parcel A hereby consents to the foregoing Agreement and agrees that the enforcement of remedies under its loan documents shall not impair the foregoing agreement.

THE FOOTHILLS BANK

By:_____

Its:_____

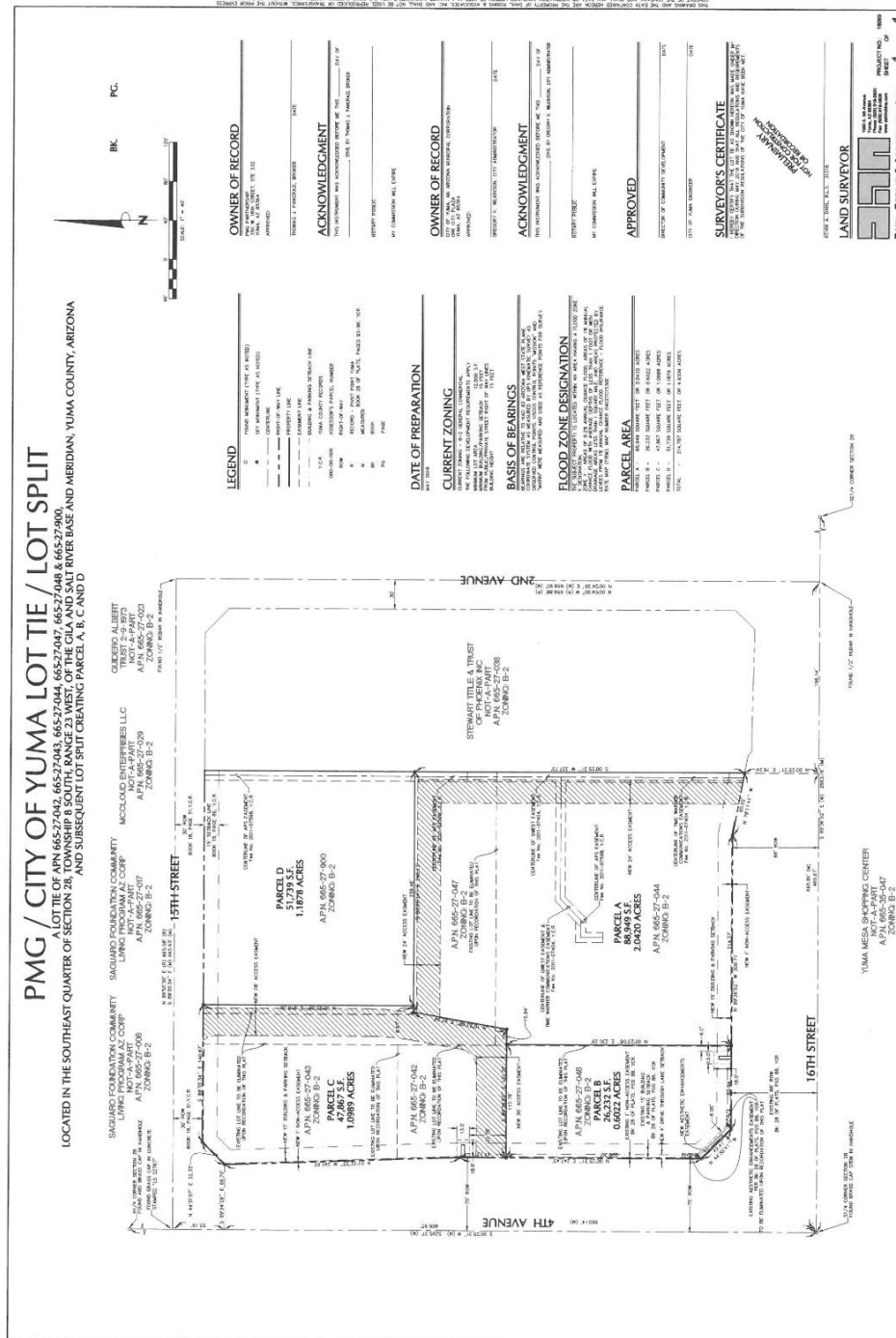
STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by _____, the _____ of The Foothills Bank, on behalf said banking institution.

My Commission Expires:

Notary Public

PMG/City of Yuma Lot Tie/Lot Split
(Delineating the Sign Easement Area on Parcel B and C)



104644585_10

Exhibit B
to
Pylon Sign Easement and Maintenance Agreement

Pylon Sign Specifications

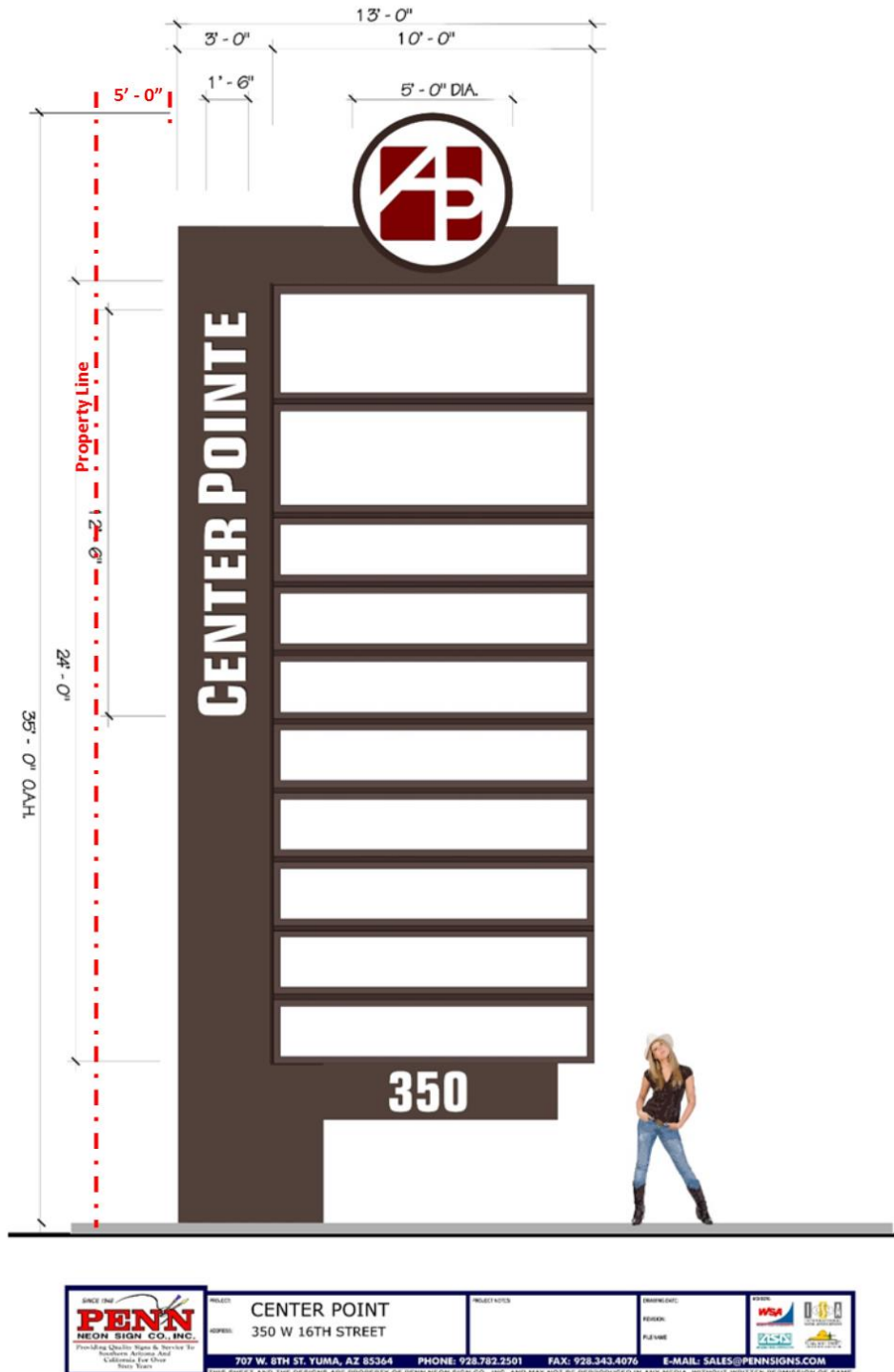


Exhibit C
to
Pylon Sign Easement and Maintenance Agreement
Liens and Encumbrances

None.

Exhibit 13 Conceptual Site Plan

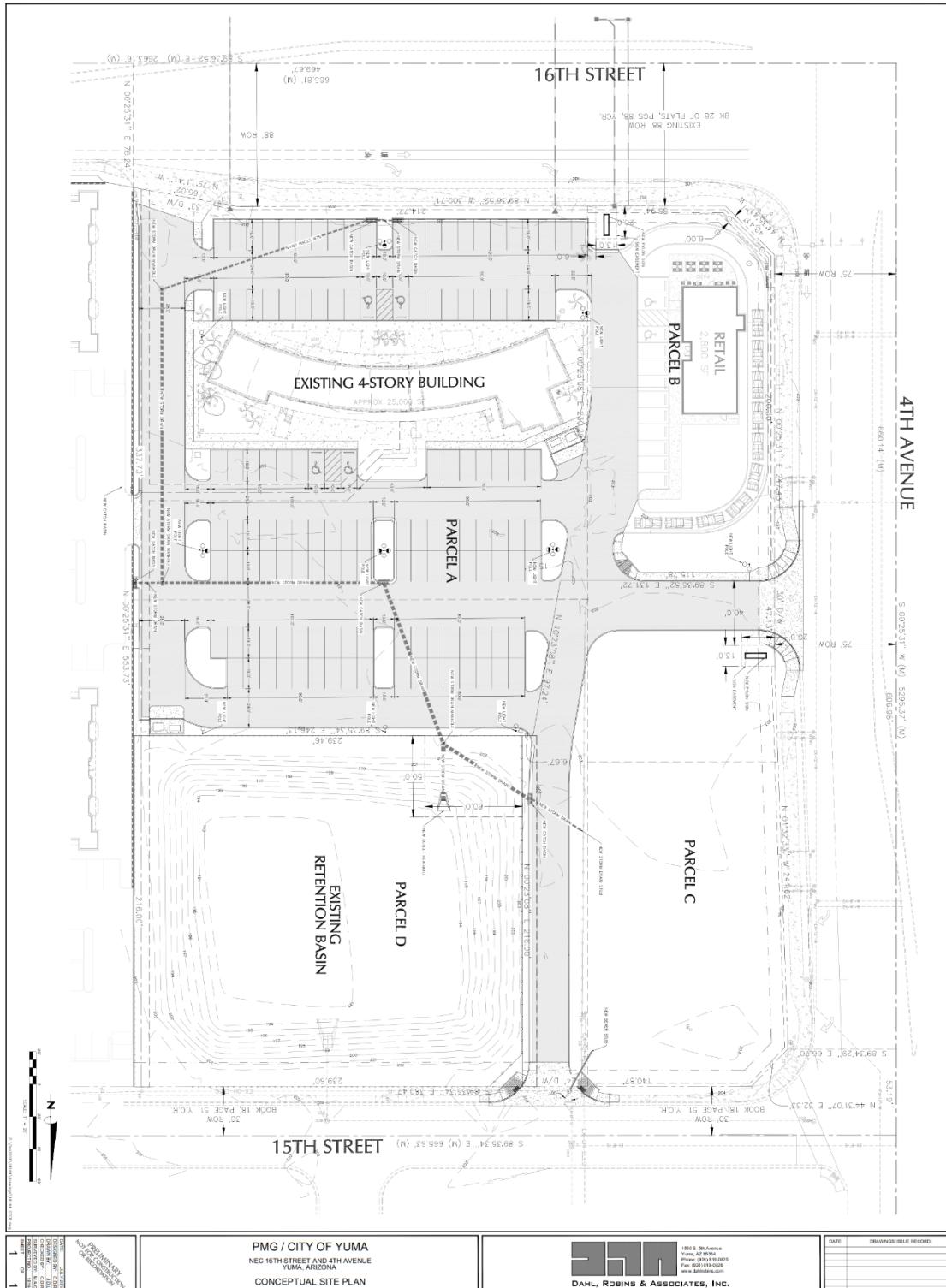
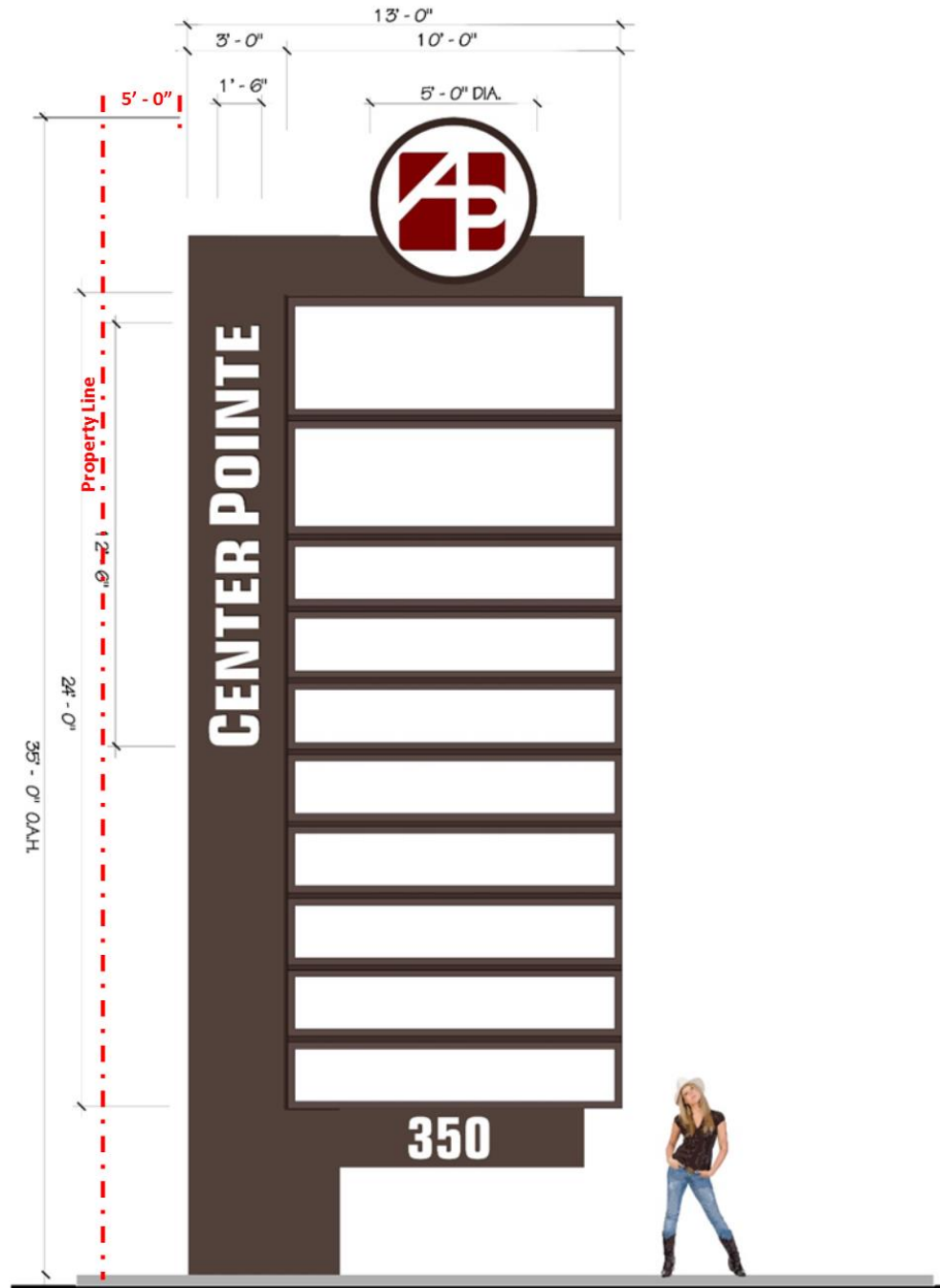


Exhibit 14
Landscape Plan

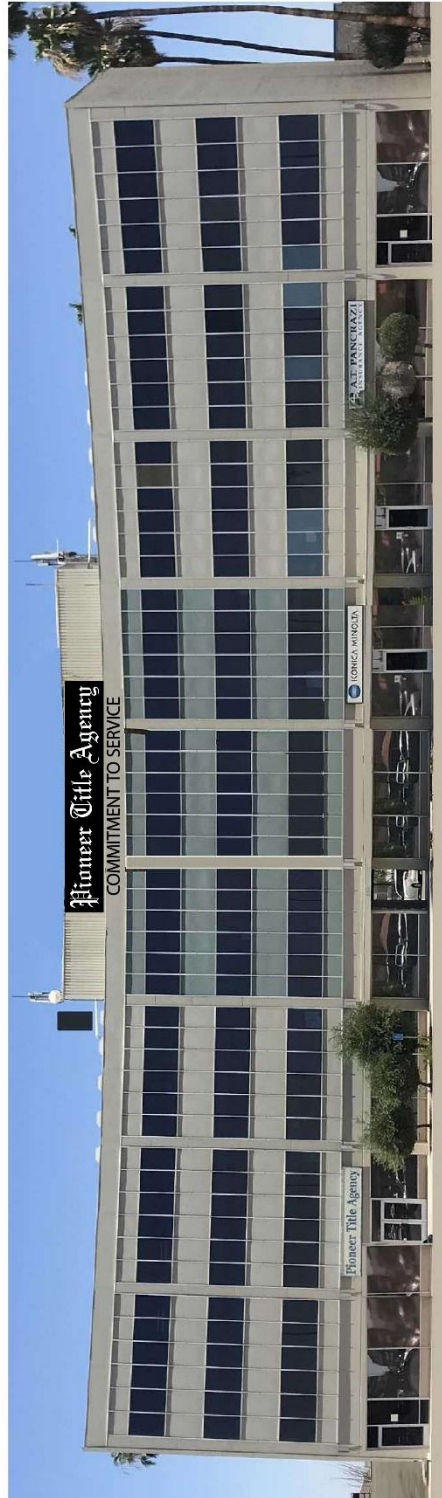
Exhibit 15

Pylon Sign Specifications

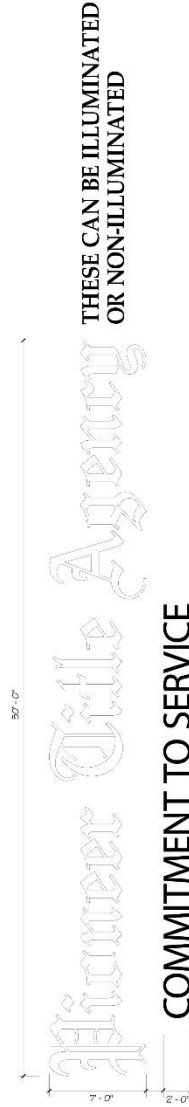


<p>UNION THE</p> <p>PENN</p> <p>NEON SIGN CO., INC.</p> <p>Providing Superior Signs & Service For Residential, Commercial, & Retail Applications Since 1968 Bakersfield, CA</p>	<p>PROJECT: CENTER POINT</p> <p>SIGNAGE: 350 W 16TH STREET</p>	<p>PROJECT NOTES:</p>	<p>PROPOSED:</p> <p>REVISION:</p> <p>DATE:</p>	<p>PERMIT:</p> <p>APPROVED:</p> <p>DATE:</p>
<p>707 W. 8TH ST. YUMA, AZ 85364</p>	<p>PHONE: 928.782.2591</p>	<p>FAX: 928.343.4076</p>	<p>E-MAIL: SALES@PENNSIGNS.COM</p>	<p>THIS SHEET AND THE DESIGNS ARE PROPERTY OF PENN NEON SIGN CO., INC. AND MAY NOT BE REPRODUCED IN ANY MEDIA, WITHOUT WRITTEN PERMISSION OF SAME.</p>

Exhibit 16
PMG Building Sign



SOUTH ELEVATION (WITH TREES REMOVED)



PENN NEON SIGN CO., INC. SINCE 1946 Providing Quality Signs & Service To Southern Arizona And California Over Sixty Years	PROJECT: ADDRESS:	A.T. Pancrazi INSURANCE & REAL ESTATE SERVICES	PROJECT NOTES:	DRAWING DATE: REVISION: FILE NAME:	MEMBERS: WSA ASPN IUA A SIGN ASSOCIATION YUMA DISTRICT
707 W. 8TH ST. YUMA, AZ 85364 PHONE: 928.782.2501 FAX: 928.343.4076 E-MAIL: SALES@PENNSIGNS.COM					
THIS SHEET AND THE DESIGNS ARE PROPERTY OF PENN NEON SIGN CO., INC. AND MAY NOT BE REPRODUCED IN ANY MEDIA, WITHOUT WRITTEN PERMISSION OF SAME.					

Exhibit 17 Drainage Plan

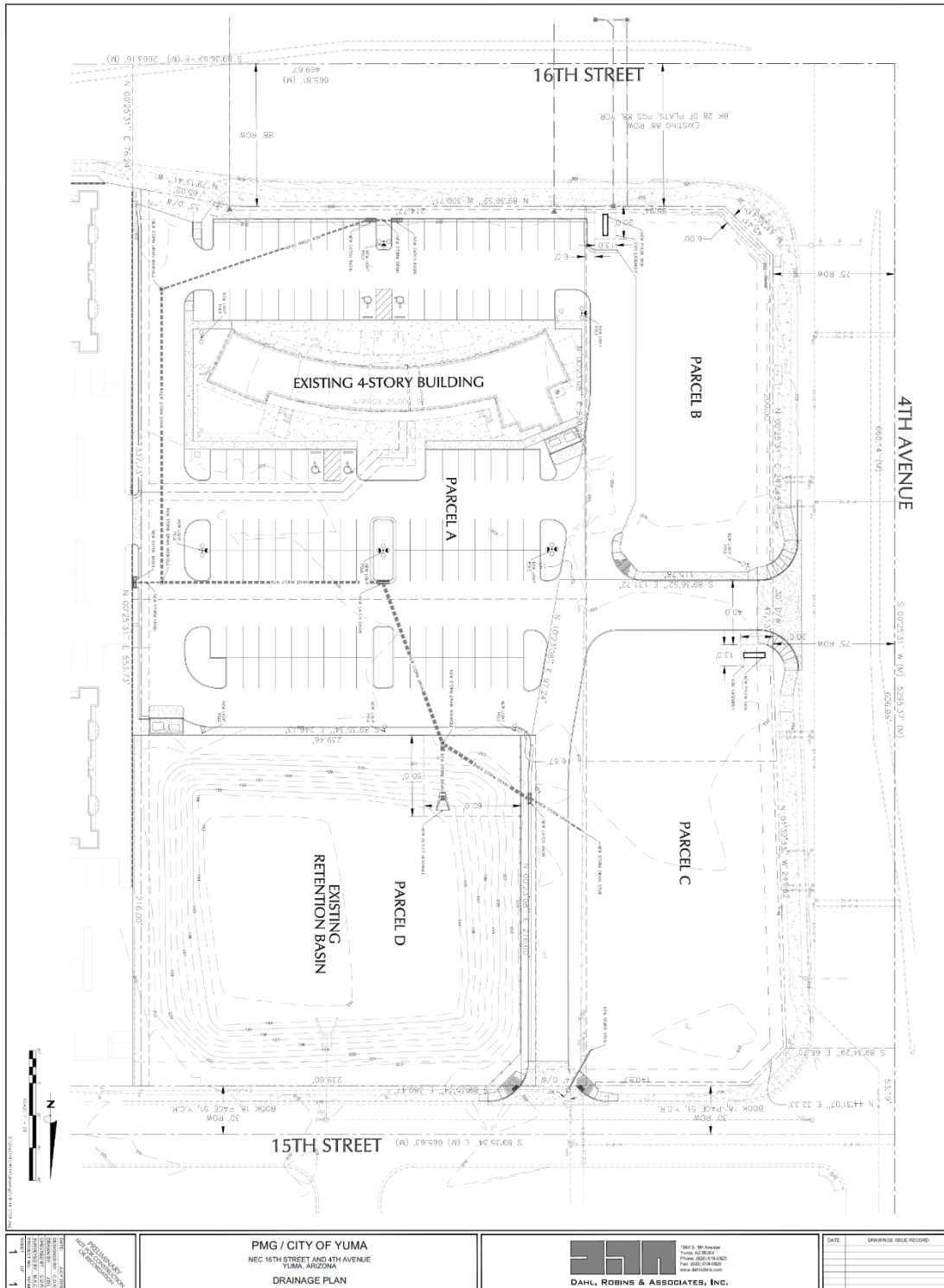


Exhibit 18 **Cost-to-Cure Improvements Plan**

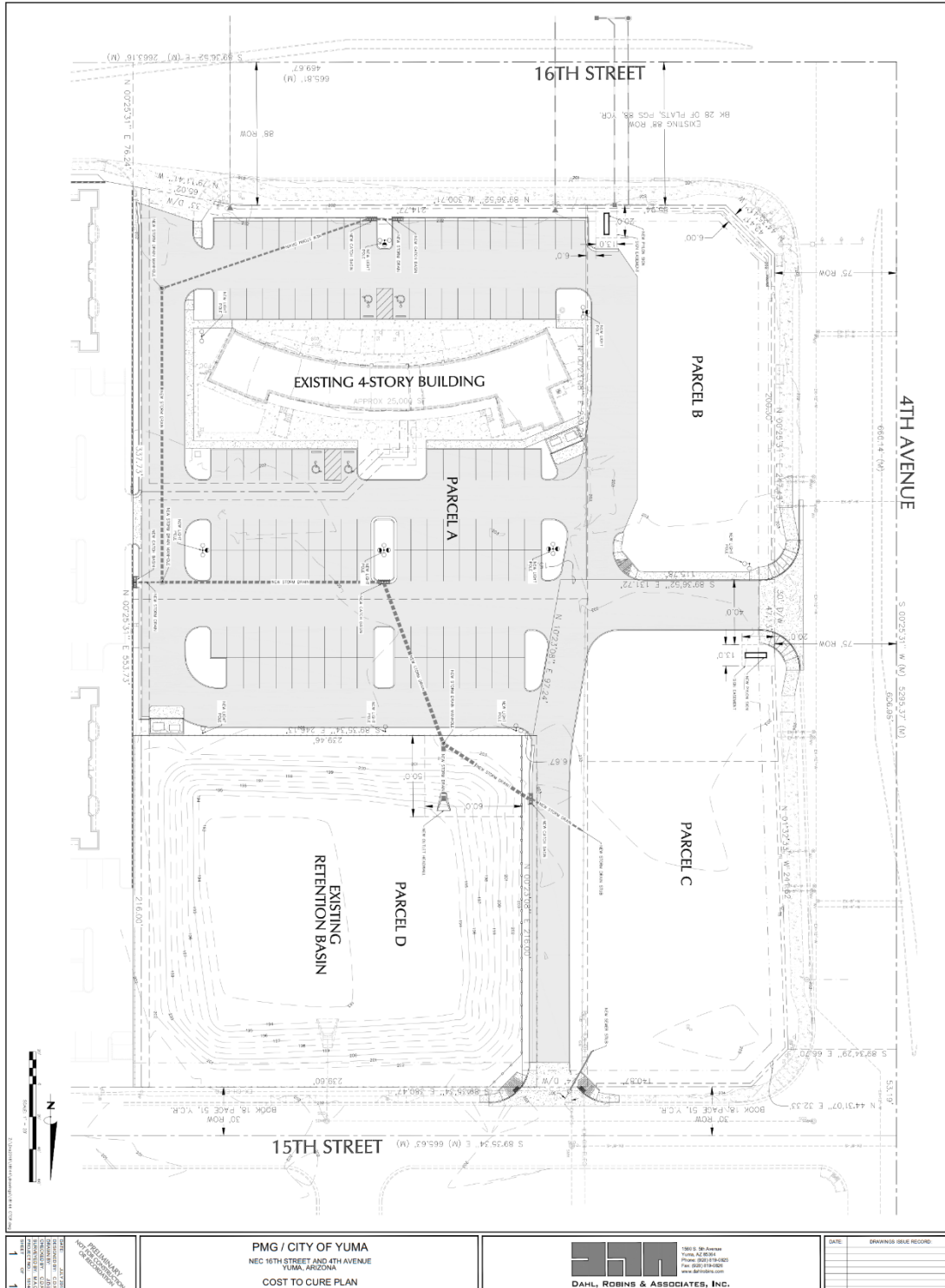
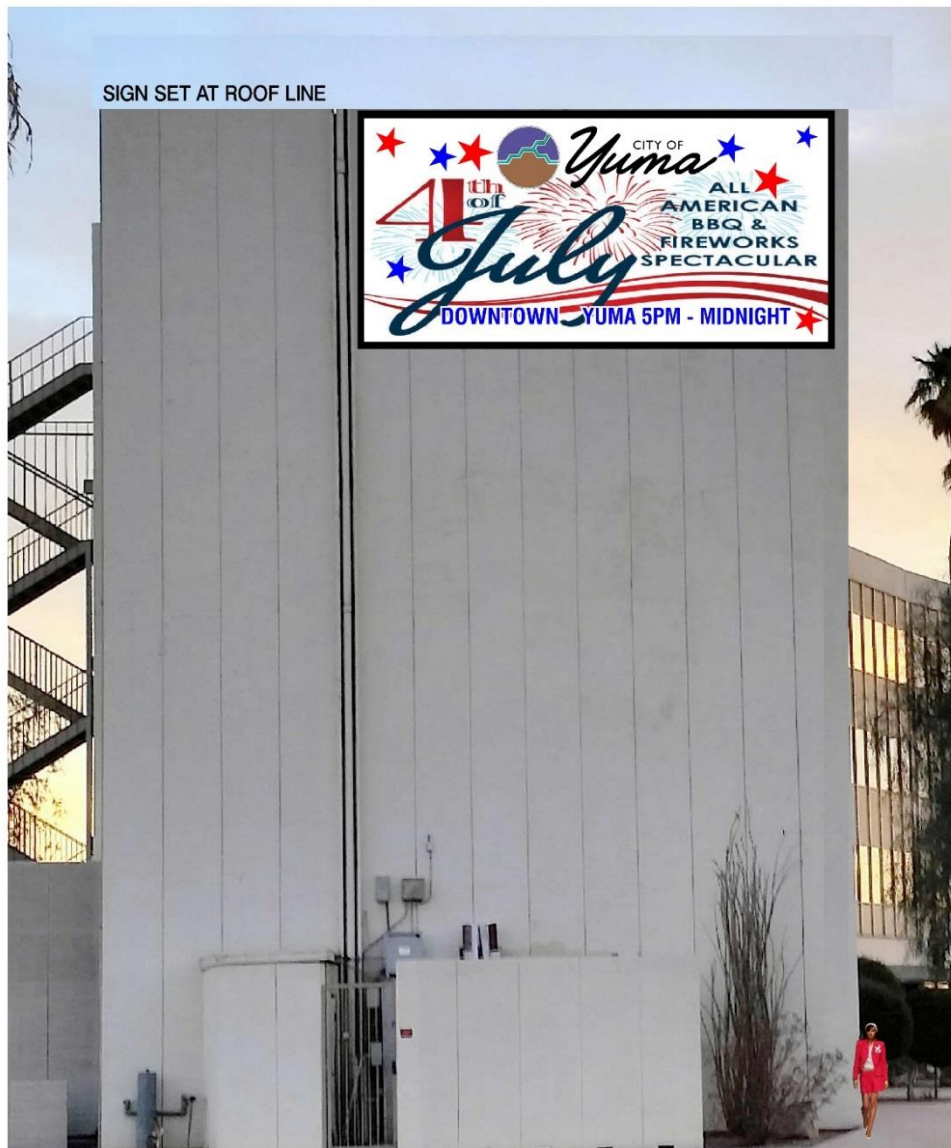


Exhibit 19
Digital Wall Sign



SIGN SET AT ROOF LINE

WEST ELEVATION

LED WALL SIGN:
16MM FULL COLOR LED MESSAGE CENTER WITH BROADBAND CONNECTION.
SIGN IS 12' X 25' TOTAL SQUARE FEET 300.

PENN SIGNS & GRAPHICS QUALITY SIGNS SINCE 1946	PROJECT: A.T. PANCRAZI REAL ESTATE 350 W. 16TH STREET YUMA, ARIZONA 85365	The proofing process is a courtesy to you. It gives us an opportunity to make sure the final product will look like you intended it. All of the information you requested on your signage.	Review proof carefully, spelling & YOUR information. Please note: always view in color.	Colors will vary from electronic proof. If color is critical, please consider color proofing on location before your project is completed.	DRAUGHTSMAN DATE: REVISION: FILE NAME:	WE OFFER:
	707 W. 8TH ST. YUMA, AZ 85364	PHONE: 928.782.2501	FAX: 928.343.4076	E-MAIL: SALES@PENNSIGNS.COM	THIS SHEET AND THE DESIGNS ARE PROPERTY OF PENN NEON SIGN CO., INC. AND MAY NOT BE REPRODUCED IN ANY MEDIA, WITHOUT WRITTEN PERMISSION OF SAME.	

Exhibit 20 Lighting Plan

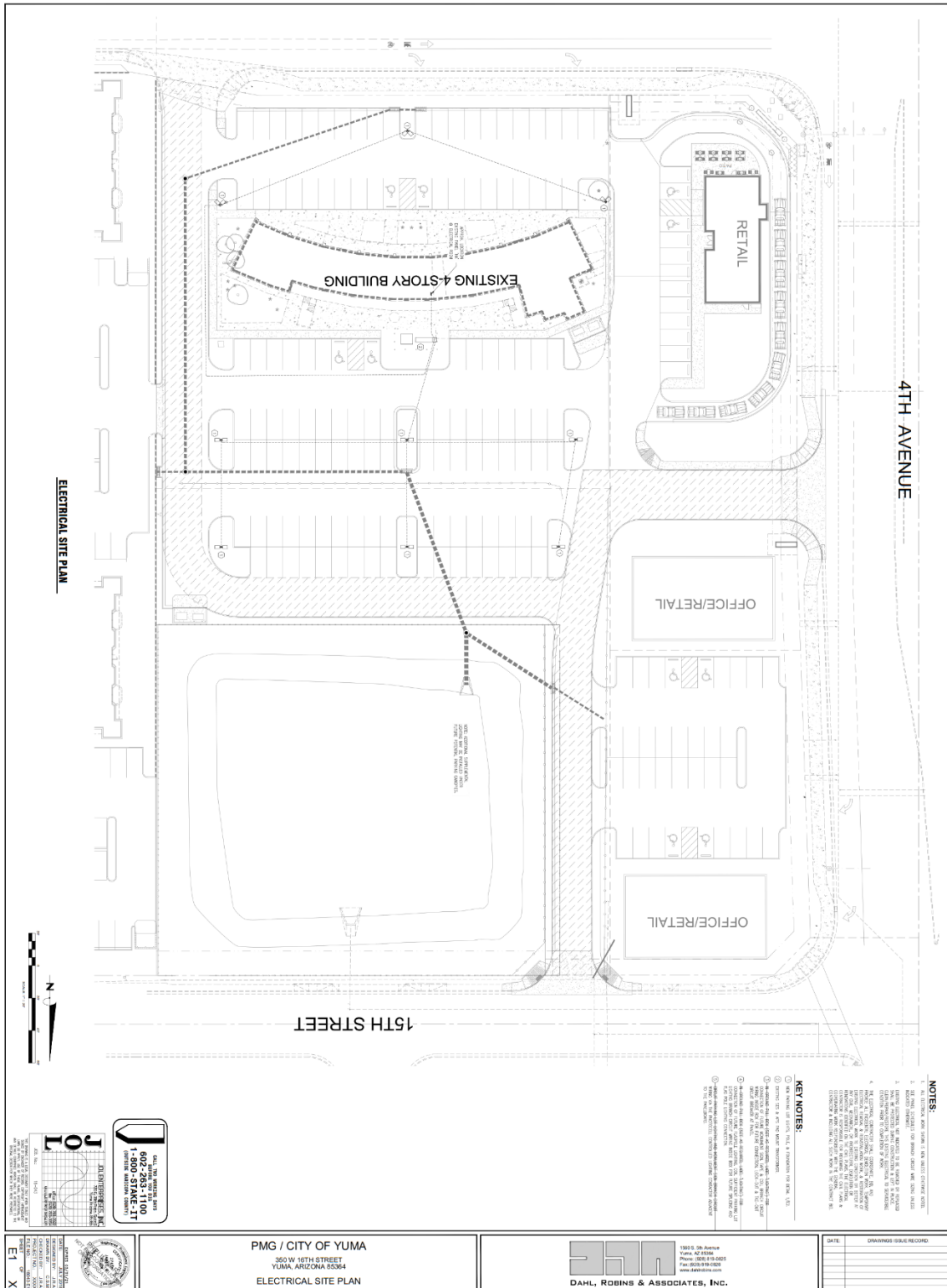


Exhibit 21

NON-DISTURBANCE AND RECOGNITION AGREEMENT

THIS NON-DISTURBANCE AND RECOGNITION AGREEMENT (this “NDRA”) is made as of the ____ day of _____, 20____, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by and among: (a) _____ (“**Developer**”); (b) _____ (“**Lender**”); and (c) City of Yuma, Arizona, an Arizona municipal corporation (“**City**”).

1. Recitals.

1.1 Developer is the present developer under a *Real Property Exchange, Settlement and Development Agreement* entered into with the City, dated _____, 20____, and recorded in the Official Records of Yuma County, Arizona, at Yuma County Recorder’s Fee# _____ (the “**Agreement**”), which Agreement sets forth certain rights and responsibilities of Developer with respect to the development of that certain real property referred to in the Agreement as Parcel _____, described in Exhibit “A” attached hereto.

1.2 Developer’s obligations arising under the Agreement include but are not limited to the development of and construction of Improvements upon, in and around the Parcels (collectively, the “**Obligations**”).

1.3 Lender has agreed to lend money to Developer, and Developer will execute certain loan documents (the “**Loan Documents**”) including but not limited to a [insert complete name of Deed of Trust document] for the use and benefit of Lender (the “**Deed of Trust**”) and a [insert name of partial collateral assignment of Development Agreement and if applicable, name of collateral assignment of Land and Improvements Lease] (the “**Assignment(s)**”) to secure the loan from Lender to Developer (the “**Loan**”). The Deed of Trust and the Assignment(s) will be recorded in the Official Records of Yuma County, Arizona, and will encumber the Parcel _____.

1.4 Lender has certain rights under the Loan Documents in the event of a default by Developer of its obligations either under the Loan Documents or the Agreement, including but not limited to the right of Lender to be substituted for Developer under the Agreement and to assume Developer’s position with respect to the Agreement subject to and in accordance with Section 17 of the Agreement (collectively, “**Developer’s Position**”) with respect only to Parcel _____ and Developer shall continue to have all rights under the Agreement, if any, relating to real property other than Parcel _____.

1.5 Accordingly the parties have executed this NDRA to be effective as of the date set forth above.

2. Subordination. Subject only to the specific provisions of (i) Section 3 herein below regarding the right of Lender to assume Developer’s position with respect to the Agreement

with respect to Parcel ___ only and (ii) Section 4 herein below regarding non-disturbance and recognition, all rights of Developer and Lender under the Deed of Trust are and shall continue to be junior, inferior, subject and subordinate to the Agreement, as it may hereafter be modified, amended, restated or replaced.

3. Notice of Developer Default.

3.1 If Lender is a “Designated Lender” as defined in Section 17 of the Agreement, City shall give Lender written notice of any Default by Developer (the “**Notice**”) under the Agreement and following the expiration of Developer’s cure period under Section 16 of the Agreement to cure such Default (as the Agreement exists as the date of this NDRA), prior to terminating the Agreement or invoking such other remedies as may be available to City under the Agreement.

3.2 Lender shall have the option, following Lender’s receipt of the Notice, and within _____ (____) days following the time period set forth herein for curing a Default of Developer, in its sole election either: (a) to cure the Default of Developer, in which event Developer shall retain its position with respect to the Agreement; or (b) in addition to any other remedies available to Lender under law, equity or contract (including but not limited to the Deed of Trust and the Assignment) to assume Developer’s Position with respect to the Agreement with respect to Parcel ___ only (to “**Assume**” or an “**Assumption**”). Lender shall give written notice to the City of its intention to Assume on or before the expiration of any applicable cure period available to Lender.

3.3 If Lender agrees to Assume Developer’s Position with respect to the Agreement with respect to Parcel____, Lender and City shall execute an amendment to the Agreement (an “**Amendment**”) and shall cause the Amendment to be recorded in the Official Records of Yuma County, Arizona. The Amendment shall state that Lender has assumed Developer’s Position with respect to the Agreement with respect to the Parcel ___ only, and that Lender is thereafter substituted for Developer with respect to all payment and performance rights and responsibilities arising under or in connection with the Agreement with respect to Parcel ___ only, and that Developer shall continue to have all rights and obligations under the Agreement with respect to all real property other than Parcel _____. The execution or approval by Developer of the Amendment shall not be necessary or required, and upon execution and recordation of the Amendment, City shall (i) look to Lender and/or Developer for performance of the Obligations under the Agreement, as applicable, and (ii) make to Lender all payments, and render all performance required to be made by the City to Developer under the Agreement with respect to the Parcels only.

3.4 In connection with (i) any foreclosure by Lender (whether by notice or judicially) of the Deed of Trust, or any other acquisition by Lender of Parcel ___ in lieu of such foreclosure (collectively, a “**Foreclosure**”) and (ii) the transfer of the Parcels to a third-party purchaser or purchasers (by way of illustration and not in limitation, a purchaser or purchasers at a trustee’s sale conducted pursuant to A.R.S. §33-810) concurrently with such Foreclosure or thereafter (a “**Purchaser**”), the Developer’s Position under the Agreement with respect to the Parcels only shall accompany and be deemed covenants running with the Parcels, and the Purchaser shall be deemed to have assumed Developer’s Position with respect to the Agreement with respect to the Parcels only. Upon the

acquisition of the Parcels by a Purchaser, City shall (i) look to Purchaser and/or Developer for performance of the Obligations under the Agreement and (ii) make to Purchaser all payments, and render all performance required to be made by the City to Developer under the Agreement with respect to the Parcels only.

3.5 Until an Assumption as defined herein, nothing in this NDRA shall constitute an assumption by Lender of any Obligation. Developer shall continue to be liable for all of the Obligations thereunder and shall perform all such Obligations, shall comply with all terms and conditions of the Agreement applicable to Developer, and shall take such steps as may be necessary or appropriate to secure performance by the City under the Agreement.

3.6 Whether before or after an Assumption as defined herein, nothing in this NDRA shall constitute a release of Developer of any Obligation.

4. **Non-disturbance and Recognition.**

4.1 In the event that City institutes any proceedings to enforce the Agreement, City agrees that, so long as Lender is not in default (beyond any applicable cure period provided to Lender under this NDRA) under the Agreement:

4.1.1 City shall not interfere with or disturb Lender's rights under the Agreement and this NDRA; and

4.1.2 Lender shall not be made a party to any proceeding commenced pursuant to the Agreement, unless Lender is determined to be a necessary party for purposes of maintaining the action or securing other necessary relief not involving the termination of Lender's interest under the Deed of Trust or the Assignment, provided that nothing herein shall prevent City from giving any required notice to Lender.

4.2 Upon and following an Assumption, Lender shall recognize the City's rights under the Agreement for the balance of the Term thereof. The recognition described in this Section 4.2 shall automatically become effective upon an Assumption by Lender.

5. **Estoppel.**

5.1 City and Developer hereby confirm to Lender that as of the date of this NDRA and to the best of their respective actual knowledge:

- a) Neither City nor Developer is in Default under this Agreement;
- b) The Agreement has not been assigned, modified or amended in any way except as set forth in Recital 1.1;
- c) The Agreement is in full force and effect; and
- d) [IF APPROPRIATE] "Completion of Construction", as defined in the Agreement occurred on _____.

6. **Miscellaneous.**

6.1 This NDRA shall be binding upon and inure to the benefit of City, Developer and Lender and their respective successors and assigns, including, without limitation, any successful bidder at any judicial foreclosure or trustee's sale.

6.2 Except as otherwise required by law, any notice required or permitted under this NDRA shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the parties at their respective addresses set forth below, or at such other address as such party may designate in writing pursuant to the terms of this Section, or by any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), delivery charges prepaid:

If to City:	City Administrator One City Plaza Yuma, Arizona 85364
With Copy to:	City Attorney One City Plaza Yuma, Arizona 85364
If to Developer:	PMG Partnership, LLC Attn: Thomas J. Pancrazi 350 W. 16 th Street, Suite 332 Yuma, AZ 85364
With to:	Copy Lewis Roca Rothgerber Christie LLP Attn: Michael J. Phalen 201 East Washington, Suite 1200 Phoenix, Arizona 85004
If to Lender:	The Foothills Bank Attn: Tom Dolan, Chief Lending Officer 2285 S. 4 th Avenue Yuma, Arizona 85364 Telephone: 928-782-7000
With to:	Copy Law Offices of Larry W. Suci Attn: Barry Olsen, Esq. 101 E. 2nd Street Yuma, Arizona 85364

Any notice sent by United States Postal Services certified or registered mail shall be deemed to be effective the earlier of the actual delivery, or three (3) business days after deposit in a post office operated by the United States Postal Service. 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 personally delivered or delivered through

a same-day delivery/courier service shall be deemed effective upon its receipt or refusal to accept receipt by the addressee. Any party may designate a different person or entity or change the place to which any notice shall be given as herein provided, by giving notice to the other parties as provided in this Section 6.2.

6.3 This NDRA is delivered in and relates to property located in Yuma County, Arizona, and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the substantive laws and judicial decisions of the State of Arizona (regardless of Arizona conflict of laws principles or the residence, location, domicile or place of business of the parties and their constituent principals) and applicable federal laws, rules and regulations, subject to Section 12.5 of the Agreement.

6.4 This NDRA integrates all of the terms and conditions of the parties' agreement regarding the subordination of the Deed of Trust and Lender's interest thereunder to the Agreement and supersedes all prior oral or written agreements with respect to such subordination (only to the extent, however; as would affect the priority between the Development Agreement and the Deed of Trust). This NDRA may not be modified or amended except by a written agreement signed by the parties or their respective successors in interest.

6.5 This NDRA may be executed and acknowledged in one or more counterparts, each of which may be executed by one or more of the signatory parties. Signature and notary pages may be detached from the counterparts and attached to a single copy of this NDRA physically to form one legally effective document.

6.6 This NDRA is subject to, and may be terminated by the City in accordance with, the provisions of A.R.S §38-511.

6.7 Each party to this NDRA represents and warrants to the others that all necessary company, corporate and/or governmental approvals, consents and authorizations have been obtained prior to the execution of this NDRA by such party, and that the person executing this NDRA on behalf of such party is duly authorized to do so to bind such party.

6.8 Capitalized terms not defined herein shall have the definitions set forth in the Agreement.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

IN WITNESS WHEREOF, the parties hereto have each caused this NDRA to be executed on or as of the day and year first above written.

“CITY”

CITY OF YUMA, an Arizona
municipal corporation

By: _____
Gregory K. Wilkinson
City Administrator

“DEVELOPER”

PMG Partnership, L.L.C.
an Arizona limited liability company

By: _____
Thomas J. Pancrazi
Manager

ATTEST:

By: _____
Lynda L. Bushong
City Clerk

By: _____
Mark R. Pancrazi
Manager

APPROVED AS TO FORM:

“LENDER”

By: _____
Richard W. Files
City Attorney

By: _____
Its: _____

Acknowledgment by City

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Gregory K. Wilkinson, the City Administrator of the City of Yuma, on behalf of the City.

Notary Public

My Commission Expires:

Acknowledgment by Developer

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Thomas J. Pancrazi, Manager, PMG Partnership, L.L.C. an Arizona limited liability company on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by Mark R. Pancrazi, Manager, PMG Partnership, L.L.C. an Arizona limited liability company on behalf of the company.

Notary Public

My Commission Expires:

Acknowledgment by Lender

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by
_____ the _____ of _____, a(n)
_____ on behalf of the _____.

Notary Public

My Commission Expires:

Exhibit A to Non-Disturbance and Recognition Agreement
Legal Description /Parcel _____

Parcel _____, PMG / CITY OF YUMA LOT TIE / LOT SPLIT, according to Book _____ of Plats, page _____, records of Yuma County Arizona being located in the Southeast quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma, County Arizona.