

**INTERGOVERNMENTAL AGREEMENT AND EASEMENT FOR
STORMWATER RUNOFF RETENTION AND FACILITIES
BETWEEN
CITY OF YUMA
AND
YUMA ELEMENTARY SCHOOL DISTRICT ONE**

This Intergovernmental Agreement (“**Agreement**”) is made and entered into this ____ day of _____, 201____, by and between the City of Yuma, an Arizona municipal corporation (“**City**”) and the Yuma Elementary School District One, a political subdivision of the State of Arizona (“**District**”). The City and the District may be referred to individually as a party or collectively as parties.

RECITALS

WHEREAS the District has or will enter into an agreement with Avenue 6E Land, LLC and Saguario Desert Land, Inc. (collectively, “**Developer**”) for the donation of approximately 10 acres of land (“**School Site**”), on which the District will construct the future Dorothy Hall Elementary School; and,

WHEREAS the Developer intends to develop the Driftwood subdivision, an approximate 105 acre subdivision located at the southwest corner of Avenue 6E and 44th Street, with the School Site located within the subdivision; and,

WHEREAS a portion of the School Site, will be utilized for both athletic fields and flood control and drainage facilities, including retention, percolation, evaporation, and the holding of storm water runoff from the subdivision and adjacent City streets, as well as storm water runoff from the elementary school site (collectively, the “**Benefitted Property**”) which is described and generally depicted (with the exception of all adjacent Streets) in the attached Exhibit 1; and,

WHEREAS the Developer will construct the dual purpose retention basin of sufficient depth to accommodate the storm water runoff from the entire 105 acre area and adjacent City streets in accordance with the City of Yuma Drainage Policy, Ordinances, and the Yuma County Flood Control District Regulations, and the District will operate and maintain the athletic fields accordingly so as not to impair the primary purpose of the athletic fields as a retention basin for storm water runoff; and,

WHEREAS the District agrees that use of the athletic fields for storm water retention, although intermittent, will be the primary use of the retention basin and all other uses will be secondary to this primary use; and,

WHEREAS within 60 days of receiving title to the School Site, the District will grant an irrevocable, perpetual storm water retention facilities and flood control easement to the City of Yuma in the form attached as Exhibit 2 (“**Easement**”) in which the athletic

fields/retention basin is the servient estate and the Benefitted Property is the dominant estate; and,

WHEREAS the City agrees to accept the Easement subject to the terms and conditions in this Agreement; and,

WHEREAS in order to facilitate the movement of pedestrians and bicycle traffic from the Ocotillo subdivision to the Dorothy Hall Elementary School, the City shall design and construct a 10-foot wide multi-use pathway along the eastside of Avenue 6E from 46th Street to 41st Street with school crossing beacons in accordance with a design approved and sealed by an Arizona licensed professional engineer; and,

WHEREAS the District shall reimburse the City for the costs of the design and construction of the multi-use path, and the purchase and installation school crossing beacons which the preliminary design engineer has estimated to cost \$189,384.80 for construction and \$27,020.00 for design, for a total amount not to exceed \$225,000; and,

WHEREAS pursuant to Arizona Revised Statutes (“**A.R.S.**”) § 11-951, et seq., cities and schools may enter into agreements for the construction, development, maintenance, operation, and use of pathways, parks, swimming pools, and other recreational facilities on property used for public purposes if the governing bodies having charge and control of such properties give their consent and cooperation; and,

WHEREAS, the District and the City are given powers dealing with the subject of this Agreement in that the District shall manage and control school property pursuant to A.R.S. §15- 341 and the City shall promote public safety and the general welfare by requiring drainage pursuant to A.R.S. §9-462.01, the District and the City will jointly exercise their respective powers in accordance with law, the terms of this Agreement, and the terms of the Easement,

NOW THEREFORE in consideration of the mutual promises and covenants, 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. The purpose of this Agreement is to (i) set forth the terms and conditions for the City to design and construct a multi-use pathway and Crossing Beacons (as defined below) on behalf of the District, and (ii) provide permanent storm water retention and flood control facilities for the real property described in the Recitals as the Benefitted Property, including all adjacent streets and interior streets within the 105-acre parcel. The parties agree that the District’s duties and obligations under this Agreement shall become irrevocable and shall run with the land as a covenant enforceable by the City upon the Developer’s commencement of construction of any subdivision within the Benefitted Property.

3. Term. This Agreement will commence upon the date of its execution by all Parties (the “**Effective Date**”), and remain in effect unless the parties mutually agree to terminate the Agreement in writing.

4. District Duties and Responsibilities. The District agrees to:

4.1 Within sixty (60) days of receiving title to the School Site, grant the City of Yuma and Developer an irrevocable, perpetual storm water retention facilities and flood control Easement in the form of Exhibit 2.

4.2 Maintain the athletic fields and easement area such that storm water retention and flood control shall be the primary use and use for athletic facilities shall be secondary to the primary use.

4.3 Cause the Developer, at the Developer’s sole cost and expense, to design the athletic fields/retention basin. Upon written City approval of the design (with the concurrence of the Yuma County Flood Control District), the Developer, at the Developer’s sole cost and expense, shall construct the retention basin in accordance with the approved design. The retention basin shall be located in its entirety on the District’s property, shall have a capacity of no less than 447,233 cubic feet of storm water runoff storage (including freeboard), and shall be capable of dissipating/disposing the stored storm water runoff within five days.

4.4 Accept for retention and disposal all storm water runoff from the Benefitted Property.

4.5 Perpetually maintain and keep the retention basin, and any retention basin underdrain basin collection system (if required), in good working order and operable condition for its primary use.

4.6 Cause the Developer to submit to the City all plans and obtain approval for construction or reconstruction of any improvement on the retention basin property prior to any work taking place.

4.7 To the fullest extent allowed by law, defend, hold harmless and indemnify the City from any claim, fine, penalty, losses, and damages resulting from or arising out of the use of the retention property as a flood control facility or as an athletic facility caused by the negligence of the District or any of the District’s employees, agents, directors, contractors, subcontractors, or assigns.

4.8 Permit entry to the retention basin property by the City, its employees and agents, for the purpose of operation or inspection of flood control and drainage facilities. In the event any athletic facility improvements of the District actually or substantially interfere or conflict with the District’s maintenance, reconstruction, modification, expansion or operation of the flood control and drainage facilities or the retention capacity,

the District shall bear the cost of moving, modifying or removing any such improvements so as not to interfere with the primary use.

4.9 The District may enter into sub-agreements as necessary for any of the responsibilities listed in this Section 4, including sub-agreements in which the Developers of the Benefitted Property perform the work associated with the design or construction of the athletic fields/retention basin.

4.10 In the event of a conflict between any sub-agreement and this Agreement, this Agreement shall prevail. Any sub-agreement shall include a clause acknowledging this Agreement and stating that the sub-agreement shall be construed in a manner to give this Agreement full force and effect.

4.11 Within thirty (30) days receipt of a written invoice, the District shall reimburse the City for any and all costs associated with the design and construction the Multi-use Pathway as defined in Section 5.3 below, and the purchase and installation two (2) Crossing Beacons as defined in Section 5.7 below, up to the maximum of \$225,000.

5. City Duties and Responsibilities. The City agrees to:

5.1 Subject to the final approval of the City Engineer and the City Administrator, accept the Easement pursuant to approval of this Intergovernmental Agreement by City Council.

5.2 To the fullest extent permitted by law, defend, hold harmless and indemnify the District from any claim, fine, penalty, losses, and damages resulting from or arising out of the negligence of the City or any of the City's employees, agents, directors, contractors, subcontractors, or assigns.

5.3 Design and construct a ten-foot wide pathway ("Multi-use Pathway") on the east side of Avenue 6E, from 41st Street to 46th Street, together with two school crossing beacons. The Crossing Beacons (as defined in Section 5.5 below) shall be owned and operated by the District. The City shall begin the design of the Multi-use Pathway within ninety (90) days after executing this Agreement, and commence construction of the Multi-use Pathway within one-hundred twenty (120) days after the final design of the Multi-use Pathway. Upon completion, the City shall operate and maintain the Multi-use Pathway.

5.4 Within thirty (30) days after the City has paid all of the costs and expenses for the design of the Multi-use Pathway and Crossings Beacons, the City shall send the District a written invoice detailing such costs. Within thirty (30) days after completion of construction of the Multi-use Pathway and Crossing Beacons, the City shall send the District a written invoice detailing such costs. The aggregate costs of the design and construction of the Multi-use Pathway and Crossings Beacons shall not exceed an amount of \$225,000.

5.5 Subject to the conditions of this Section 5.5, allow the District, the use of certain portions of City right-of-way at the approximate extension of 44th Place across 6E, for the sole purpose of operating, and maintaining one (1) variable speed flashing beacon (a “**Crossing Beacon**”) on the west side of Avenue 6E and one (1) Crossing Beacon on the east side of Avenue 6E. The District shall also be subject to the following conditions:

- A. The City shall install the Crossing Beacons pursuant to the manufacturer’s requirements and the engineer’s stamped design.
- B. The District shall, at its sole cost, own, repair, replace, operate and maintain the Crossing Beacons in accordance with most current edition of the Manual on Uniform Traffic Control Devices (“MUTCD”).
- C. The District shall not permit the Crossing Beacons to fall into any disrepair or become a visual blight. In addition to any regular maintenance performed by the District, the District shall, at least once each year this Agreement is in effect, inspect the Crossing Beacons to ensure they are operating in accordance with the MUTCD. The District shall submit a report summarizing the inspection’s finding and results to the City within thirty (30) days after each inspection.
- D. The District’s use of the Crossing Beacons shall not infringe, impair, or interfere with any other use of the City rights-of-way. The District shall coordinate the times the Crossing Beacons may be operating with the City Engineer.
- E. To the fullest extent allowed by law, defend, hold harmless and indemnify the City from any claim, fine, penalty, losses, and damages resulting from or arising out of the operation, or maintenance of the Crossing Beacons caused by the negligence of the District or any of the District’s employees, agents, directors, contractors, subcontractors, or assigns.

6. Mutual Terms:

6.1 The District or the City in its sole discretion shall close access to the retention basin property in the event of an imminent storm, storms or retention of water within the basin. As soon as practicable, the responsible party shall immediately notify the other party of such action.

6.2 The parties mutually agree that the primary use of the retention basin property is for flood control and drainage and that the use by the District for athletic facilities or recreation shall at all times be secondary and subservient to the primary use. In no event or circumstance shall use of the athletic facilities by the District interfere with the use of the retention basin property for flood control and drainage purposes.

6.3 If access to the retention basin property has been closed due to imminent storms, actual storms or water retention, the basin shall be inspected within a reasonable time thereafter by designated representatives of both parties who shall agree that the property is safe for public use before any recreational or athletic activity shall resume. In the event that the parties cannot so agree within a reasonable time, then the District shall

have the right to resume recreational or athletic activities at the District's discretion and risk.

6.4 Water quality in the drainage system shall be maintained and any substances introduced into the retention basin will not exceed salinity or chemical pollutant levels acceptable under applicable Federal or State water quality laws. Upon a final determination by any governmental agency of competent jurisdiction, that allowable pollutant levels have been exceeded during use of the retention basin property, the District shall take such steps as are determined necessary to insure that the quality of water meets all applicable Federal and State standards. Notwithstanding the foregoing, if the Developer or the City is responsible for the drainage of hazardous substances or pollutants from the portions of the Benefitted Property that are not the District's property, then the responsible party shall be required to pay for any necessary remediation.

7. Development Standards. Unless otherwise specifically exempted in this Agreement, any development, redevelopment or construction on the retention basin property shall comply with all City, county, federal and state laws, policies, regulations, and development standards ("**Applicable Laws**") in effect as of the date of issuance of the construction permit or other approval for that particular building, structure or improvement to be constructed.

8. Construction of Storm Water Retention. The storm water retention basin shall be subject to the City's normal plan submittal, review and approval processes, day-to-day inspection requirements, insurance requirements, financial assurance requirements, and design standards. The Developer's construction and installation of the storm water retention basin shall occur within the time-frames specified in this Agreement.

8.1 The Developer is responsible for assuring that the storm water retention basin is constructed in accordance with the designs, plans and specifications approved by the City. Construction may not commence until written approval of the plans and specifications has been given and, if required, an access/encroachment permit has been issued by the City. The City shall inspect the construction work for compliance with specifications, plans, codes, ordinances and other regulations or laws that may apply.

8.2 All costs of the storm water retention basin design and construction, including without limitation, the cost of construction permits and performance bonds, shall be paid and performed at no cost to the City. The City shall perform City required inspections and testing of the retention basin without cost to the District or the Developer.

9. 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 11 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.

10. Remedies. If the default is not corrected within the time periods described in Section 10 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.

11. 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 hereto may, from time to time, designate in writing.

Yuma Elementary School District One
450 W. 6th Street
Yuma, Arizona 85364
Attn: Superintendent

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

12. 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 Owner from undertaking any contractual commitment to perform under any provision hereunder, the remaining portions of this Agreement shall remain in full force and effect, and the parties will negotiate diligently in good faith for such amendments of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.

13. 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 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 or specifically referred to in this Agreement is valid or binding.

14. 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, create any right or cause of action in any third person, firm, corporation or entity. Only the parties shall have a right to bring suit under the terms of this Agreement.

15. Date of Performance. Time is of the essence. If the date of performance of any obligation hereunder 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 the time period shall expire, on the first day thereafter which is not a Saturday, Sunday, or legal holiday.

16. 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 and until this Agreement or counterparts hereof have been executed by both parties.

17. Representations of the Parties:

17.1 District Representations. The District represents and warrants that:

a. The District has the full right, power and authorization to enter into and perform this Agreement, the obligations and undertakings of the District under this Agreement, and the execution, delivery and performance of this Agreement by the District

has been duly authorized, agreed to, and is in compliance with Arizona law and any organizational documents of the District.

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

d. As of the date of this Agreement, the District knows of no litigation, proceeding or investigation pending or threatened against or affecting the District, which could have a material adverse effect on the District's performance under this Agreement that has not been disclosed in writing to the City.

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

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

17.2 City representations. City represents and warrants to the District that:

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

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

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

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

18. Exhibits; Sections. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement. References to Sections are to Sections of this Agreement unless stated otherwise.

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

20. Successors and Assigns. This Agreement shall not be assignable.

21. 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 21.

22. Non-Discrimination. The parties shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 2009-09 which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities. The parties shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap, and the Americans with Disabilities Act.

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

24. Recordation. The City shall record a copy of this Agreement no later than ten (10) days from date of entering into this Agreement.

25. 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.

26. 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 may be reasonably required 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.

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

28. Individual Nonliability. No City Council member, official, representative, agent, attorney or employee shall be personally liable to any of the other parties in the event of any default or breach by City or for any amount which may become due to a party, or with respect to any obligation of the City under the terms of this Agreement. No District Board member, official, representative, agent, attorney or employee shall be personally liable to any of the other parties in the event of any default or breach by the District or for any amount which may become due to a party, or with respect to any obligation of the District under the terms of this Agreement.

29. Proposition 207 Waiver. The District waives and releases 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 the Retention Property or any portion thereof, as a result of City's approval or failure to approve this Agreement. The terms of this waiver

shall run with the land, and shall survive the expiration or earlier termination of this Agreement.

30. Retention and inspection of records. The Parties shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the performance of the Agreement for a period of five (5) years after the completion of the Agreement and to make such documents open to inspection and audit at reasonable times.

31. Employee Work Eligibility. By entering into the Agreement, the Parties warrant compliance with A.R.S. § 41-4401, A.R.S § 23-214(A), the Federal Immigration and Nationality Act (FINA), and all other Federal immigration laws and regulations.

32. Provisions Required by Law. Each and every provision of law and any clause required by to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, this Agreement will promptly be physically amended to make such insertion or correction.

Dated this _____ day of _____, 201____.

YUMA ELEMENTARY
SCHOOL DISTRICT ONE

CITY OF YUMA

By: _____
James Sheldahl
Superintendent

By: _____
Gregory K. Wilkinson
City Administrator

ATTEST:

By: _____
Lynda L. Bushong

INTERGOVERNMENTAL AGREEMENT APPROVAL

The foregoing has, prior to its execution, been submitted to the attorney for each party, who has determined that the intergovernmental agreement is in proper form and is within the powers and authority granted under the laws of this state to such party.

Dated this ____ day of _____, 201__

By: _____

Laura Sever Blanco

Attorney for Yuma Elementary School District One

Dated this ____ day of _____, 201__

By: _____

Richard W. Files

Yuma City Attorney

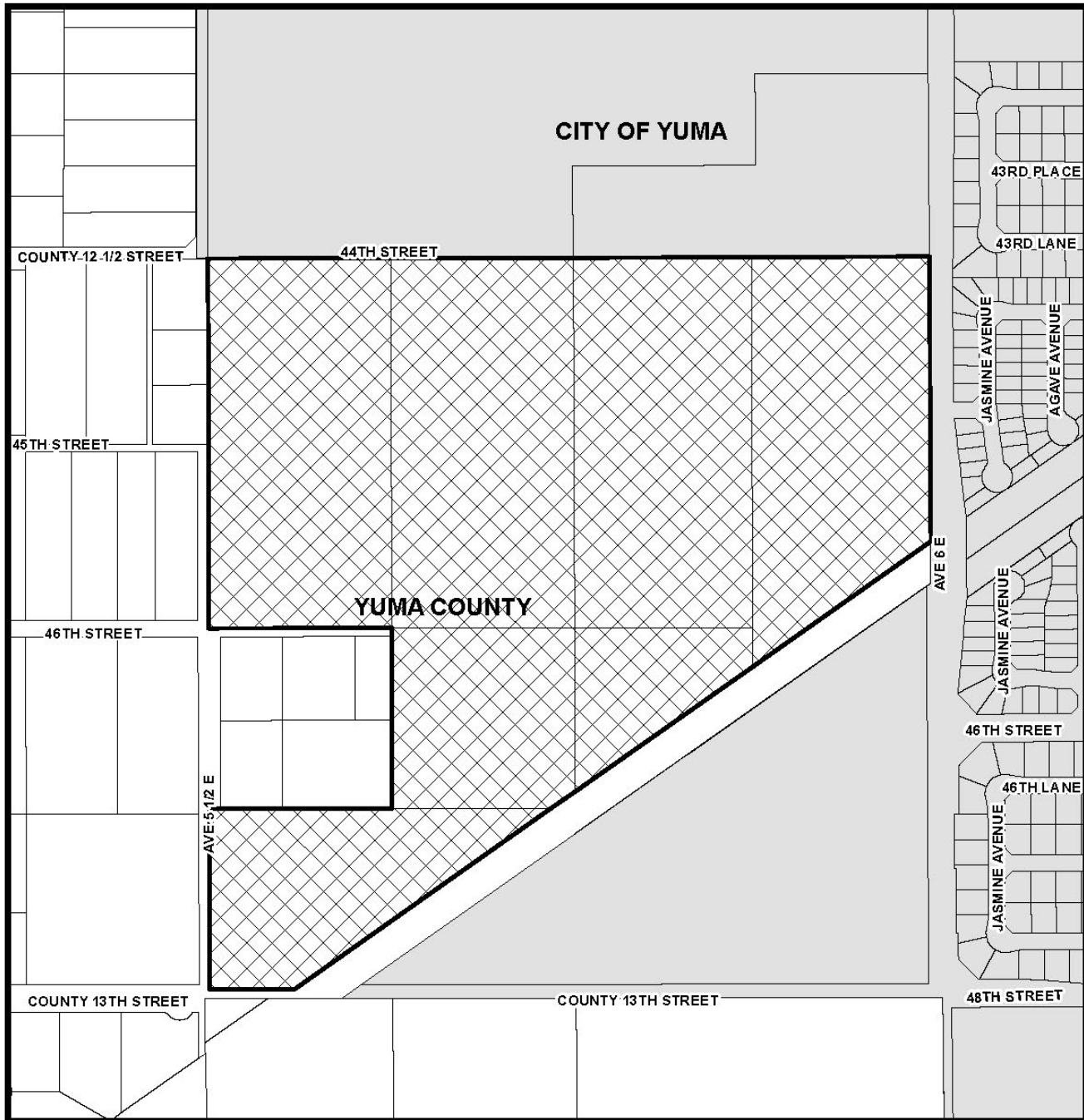
Exhibit 1

Legal Description and Depiction of the Benefitted Property

A portion of the Southeast Quarter (SE1/4) of Section 17, Township 9 South, Range 22 West, Gila & Salt River Base & Meridian, Yuma County, State of Arizona, and more particularly described as follows:

Commencing at the Southwest Corner of the Southeast Quarter (SE1/4), also known as the South 1/4 of said Section 17, and the TRUE POINT OF BEGINNING; Thence Easterly on the South section line of said Section 17, to a point on the North Right-of- Way Line of the United States Department of the Interior Bureau of Reclamation (a.k.a. USBR) "A" Canal, as Shown on (USBR) Drawing Titled A and B CANALS AND LATERALS RIGHT OF WAY ACROSS PUBLIC LANDS, Drawing Number 50-303-4981; Thence Northeasterly along North Right-of- Way line of said USBR Canal to a point 33 feet West of the East line of said Section 17; Thence Northerly along a line lying 33 feet West of the East line of said Section 17, to a point on the North line of the Southeast Quarter (SE1/4), and 33 feet Westerly of the Northeast corner of the Southeast Quarter (SE1/4), also known as the East 1/4 corner of said Section 17; Thence Westerly along the North line of the Southeast Quarter (SE1/4) to the Northwest Corner of the Southeast Quarter (SE1/4), also known as the Center Quarter (C1/4) corner of said Section 17; Thence Southerly along the West line of the Southeast Quarter (SE1/4) to a point, being the Northwest corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) also known as the CS 1/16 of said Section 17; Thence Easterly along the North line of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) to a point, being the Northeast corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) of said Section 17; Thence Southerly along the East line of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4), to the Southeast corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) of said Section 17; Thence Westerly along the South line of Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4), to a point being the Southwest corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) of said Section 17; Thence Southerly along the West line of the Southeast quarter, to the Southwest Corner of the Southeast Quarter (SE1/4), also known as the South 1/4 of said Section 17, and the TRUE POINT OF BEGINNING.

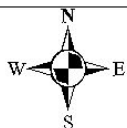
The above described parcel contains 4,549,541 square feet or 104.44 acres more or less.



LOCATION MAP



LOCATION OF SUBJECT PROPERTY



Prepared by: MG

Checked by:



City of YUMA
Information Technology Services
Enterprise GIS

Date: 08-27-14

Revised:

Revised:

Case #:

AGR-7094-2014

Exhibit 2

When Recorded, Return To:
(The City Will Pick Up)

GRANT OF EASEMENT	
GRANTOR Yuma Elementary School District One 450 West 6 th Street Yuma, Arizona 85364	GRANTEE City of Yuma A Municipal Corporation One City Plaza Yuma, Arizona 85364-1436

EXEMPT from Affidavit and Filing Fees (A.R.S. 11-1134)

For and in consideration of ten dollars and other valuable consideration, Yuma Elementary School District One (“**Grantor**”) hereby grants and conveys to the City of Yuma, an Arizona municipal corporation (“**Grantee**”), its successors and assigns, the right, privilege and perpetual easement for storm water collection, retention, drainage, discharge and disposal of storm water from the real property described in the attached Exhibit A and all adjacent roadways (the “**Dominant Estate**”) and for the City of Yuma to authorize any of the real property within the Dominant Estate to drain, pipe, and discharge storm water to the real property situated in Yuma County and described in Exhibit B (the “**Servient Estate**”):

Grantor also grants and conveys to Grantee the right of ingress and egress to operate, maintain, repair, replace, reconstruct, and to remove objects interfering with the Servient Estate’s primary function as a retention basin, at any and all points within, through, over and across the Servient Estate; provided, however, Grantee shall not remove fencing installed by Grantor needed for school security.

Grantor shall not erect or construct or permit to be erected or constructed any building, athletic or recreation facility or other structure or drill a well within the limits of the easement without submitting plans which must be approved in writing by the Grantee prior to the commencement of work; nor shall Grantor plant or permit to be planted any trees within the limits of the easement without the prior written approval of the City.

By accepting this easement, Grantee agrees to exercise reasonable care to avoid damage to the described real property and any property that may at any time be thereon, including, but not limited to security fencing.

By virtue of Granting this perpetual easement, Grantor, for and on behalf of itself and its successors in interest to any and all of the described real property, hereby acknowledges that the Grantee will reserve and use the property for the purposes of flood control and storm water retention, collection and disposal, and that such use shall be the primary use of the described real property with all other uses secondary.

IN WITNESS WHEREOF, the Grantor has executed this perpetual easement this _____ day of _____, 201____.

GRANTOR-Yuma Elementary School District One

By _____
James Sheldahl
Superintendent

State of Arizona)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by James Sheldahl, Superintendent of Yuma Elementary School District One.

My Commission Expires: _____
Signature and Seal of Notary Public

Acceptance:

Gregory K. Wilkinson
City Administrator

Attest:

Lynda L. Bushong
City Clerk

Approved as to Form:

Richard W. Files
City Attorney

Description Verified By:

Jeff Kramer
City Engineer

Exhibit A

Legal Description and Depiction of the Benefitted Property

A portion of the Southeast Quarter (SE1/4) of Section 17, Township 9 South, Range 22 West, Gila & Salt River Base & Meridian, Yuma County, State of Arizona, and more particularly described as follows:

Commencing at the Southwest Corner of the Southeast Quarter (SE1/4), also known as the South 1/4 of said Section 17, and the TRUE POINT OF BEGINNING; Thence Easterly on the South section line of said Section 17, to a point on the North Right-of- Way Line of the United States Department of the Interior Bureau of Reclamation (a.k.a. USBR) "A" Canal, as Shown on (USBR) Drawing Titled A and B CANALS AND LATERALS RIGHT OF WAY ACROSS PUBLIC LANDS, Drawing Number 50-303-4981; Thence Northeasterly along North Right-of- Way line of said USBR Canal to a point 33 feet West of the East line of said Section 17; Thence Northerly along a line lying 33 feet West of the East line of said Section 17, to a point on the North line of the Southeast Quarter (SE1/4), and 33 feet Westerly of the Northeast corner of the Southeast Quarter (SE1/4), also known as the East 1/4 corner of said Section 17; Thence Westerly along the North line of the Southeast Quarter (SE1/4) to the Northwest Corner of the Southeast Quarter (SE1/4), also known as the Center Quarter (C1/4) corner of said Section 17; Thence Southerly along the West line of the Southeast Quarter (SE1/4) to a point, being the Northwest corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) also known as the CS 1/16 of said Section 17; Thence Easterly along the North line of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) to a point, being the Northeast corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) of said Section 17; Thence Southerly along the East line of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4), to the Southeast corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) of said Section 17; Thence Westerly along the South line of Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4), to a point being the Southwest corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW1/4SW1/4SE1/4) of said Section 17; Thence Southerly along the West line of the Southeast quarter, to the Southwest Corner of the Southeast Quarter (SE1/4), also known as the South 1/4 of said Section 17, and the TRUE POINT OF BEGINNING.

The above described parcel contains 4,549,541 square feet or 104.44 acres more or less.

Exhibit B
Legal Description of Retention Basin