



# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:**

September 16, 2020

**DEPARTMENT:**

Community Development

**DIVISION:**

Community Planning

- ☐ Motion
- ☒ Resolution
- ☐ Ordinance - Introduction
- ☐ Ordinance - Adoption
- ☐ Public Hearing

**TITLE:**

Rescind and Replace Original Intent to Create Municipal Improvement District No. 104: Desert Sky Unit 1

**SUMMARY RECOMMENDATION:**

Rescind and replace the original intent to create for Municipal Improvement District No. 104 to serve Desert Sky Unit 1. (Community Development/Community Planning) (Randall Crist)

**REPORT:**

On April 4, 2018, through Resolution number R2018-003, the City Council approved the intent to create for Municipal Improvement District (MID) No. 104 to serve Desert Sky Unit 1. In late 2019, the Yuma County Assessor's Office notified staff that an unintended error occurred in the legal description of the MID. The legal description described the area to be improved, not the boundary of the properties participating in the MID. Although the Resolution itself was correct and the map showed the MID boundary, the Yuma County Assessor believed the legal description of the improved area instead of the MID boundary would cause confusion at the Arizona Department of Revenue (ADOR) during the ADOR approval process.

The clearest solution was to rescind the existing creation of the District and ordering of improvements of the District and replace with a corrected legal description of the boundaries of the District. This solution requires that the developer submit a new, revised petition and that the City Council rescind the existing MID and replace/reapprove the MID with the revised information.

While phase one of the Desert Sky has begun, the developer still retains ownership of more than 50% of the development. Therefore, because the developer is no longer the sole owner within the proposed district, A.R.S. § 48-578 requires that this Resolution, without Exhibit 1, be published in the Yuma Sun for five consecutive dates and a Notice of Proposed Improvement be posted in conspicuous places no more than 300 feet apart surrounding the proposed Municipal Improvement District. The statutes governing MIDs call for a majority of ownership to form and operate MIDs. Here, the developer remains the majority owner of properties within the MIDs.

### BACKGROUND ON MIDs

Under provisions of the City Code, all developers are responsible to completely landscape their development projects according to the approved plans prior to issuance of the final acceptance of the Subdivision. In particular, subdivisions are required to provide landscaping along certain arterial and collector streets, in retention basins, and in other locations as provided in the zoning requirements, approval stipulations, engineering requests or subdivision requirements. In addition, developers may provide paths, trails, and other amenities in the common open space areas adjacent to arterial and collector streets. Neighborhood landscape amenities add value to properties, enhance walkability, and improve community aesthetics.

In the past, once the landscaping was installed by the developer and accepted by the City, the developer would provide a cash deposit to the City for several years of landscaping maintenance and the responsibility of ongoing maintenance for the landscaping in the community was shifted to the City of Yuma Public Works Department.

As an alternative to this existing situation, a statutory MID can now be created. The state legislature permits the creation of MIDs for cities and towns to provide a dedicated funding stream for improvements and neighborhood decisions on improvements. In the City of Yuma context, MIDs are utilized for landscape maintenance and provide local control over landscape maintenance. Residents within the MID pay a special assessment on their property tax bill and gain a direct decision-making role in the level of maintenance within their community. The City will outsource maintenance to a local landscape maintenance contracting company and the amount of the assessment will directly reflect the cost of maintenance. Resident input on the level of maintenance and proposed improvements will be reviewed and approved on an annual basis.

The body of law for MIDs in cities and towns is found at A.R.S. § 48-501 *et seq.* MIDs are used in the metro Phoenix area in lieu of homeowners' associations or as back-ups to existing homeowners' associations so those residents can enjoy the same or similar landscape amenities without the need to be part of a homeowners' association.

Pursuant to the provisions of A.R.S. § 48-574, the Mayor and City Council are empowered to form a MID for the following purposes: operations, maintenance, repair and improvements of pedestrian malls, off-street parking facilities, retention basins, parkings, and parkways. Per statute, the Mayor and City Council can initiate the formation of a MID or property owners can petition to form a MID. In this case, a MID was contemplated in a development agreement and the developer has submitted an executed Petition, Waiver, and Consent form requesting the formation of the MID.

Attached to this Request for City Council Action is the petition to form a MID for the Desert Sky Unit 1 development. Also attached is the formal Resolution of Intention for Creation of City of Yuma Municipal Improvement District No. 104: Desert Sky Unit 1 which is generally located at 40<sup>th</sup> Street and Avenue 7½E.

Following the passage of a Resolution of Intention to Create MID, certain impacted property owners, in accordance with A.R.S. § 48-579, are given fifteen days to express written protest against the proposed MID. If no protests are submitted, the Mayor and City Council are authorized to adopt a second resolution, the Resolution Ordering the Improvements, which finalizes the formation of the MID process. It is anticipated that the Resolution Ordering the Improvements will be heard at the next regular City Council meeting after the creation of this MID.

Adopting this Resolution rescinds the existing MID and reauthorizes the creation of Municipal Improvement District No. 104 to serve Desert Sky Unit 1 with the updated legal descriptions.

|                        |   |                            |  |        |
|------------------------|---|----------------------------|--|--------|
| FISCAL REQUIREMENTS    | CITY FUNDS:   | \$0.00                     | BUDGETED:  | \$0.00 |
|                        | STATE FUNDS:  | \$0.00                     | AVAILABLE TO TRANSFER:   | \$0.00 |
|                        | FEDERAL FUNDS:  | \$0.00                     | IN CONTINGENCY:  | \$0.00 |
|                        | OTHER SOURCES:  | \$0.00<br>\$0.00<br>\$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING<br>ACCOUNT / FUND / CIP: |        |
|                        | TOTAL:  | \$0.00                     |  |        |
|                        | FISCAL IMPACT STATEMENT:  |                            |  |        |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK:  |                            |  |        |
|                        | 1.<br>2.<br>3.<br>4.<br>5.<br><br>IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?<br><br><input type="radio"/> Department<br><input type="radio"/> City Clerk's Office<br><input checked="" type="checkbox"/> Document to be recorded<br><input type="checkbox"/> Document to be codified |                            |  |        |
| SIGNATURES             | CITY ADMINISTRATOR:   |                            | DATE:  |        |
|                        | Philip A. Rodriguez   |                            | 9/9/2020   |        |
|                        | REVIEWED BY CITY ATTORNEY:  |                            | DATE:  |        |
|                        | Richard W. Files  |                            | 9/9/2020   |        |
|                        | RECOMMENDED BY (DEPT/DIV HEAD):   |                            | DATE:  |        |
| Alyssa Linville        |   | 8/24/2020                  |  |        |
| WRITTEN/SUBMITTED BY:  |   | DATE:                      |  |        |
|                        |   |                            |  |        |