

# City of Yuma City Council Meeting Agenda

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Wednesday, April 16, 2025

5:30 PM

Yuma City Hall Council Chambers  
One City Plaza, Yuma

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

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

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

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

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

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

## **CALL TO ORDER**

## **INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **FINAL CALL**

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

**ROLL CALL****PRESENTATIONS**

- Reading of Proclamation: Community Development Week

**I. MOTION CONSENT AGENDA**

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

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

1. [MC 2025-055](#)      **Regular Council Meeting Draft Minutes February 5, 2025**  
*Attachments:*      [2025 02 05 RCM Minutes](#)
2. [MC 2025-054](#)      **Regular Council Worksession Draft Minutes March 18, 2025**  
*Attachments:*      [2025 03 18 RWS Minutes](#)

**B. Executive Sessions**

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

**C. Approval of staff recommendations:**

1. [MC 2025-051](#)      **Bid Award: Arizona Avenue Waterline Replacement - 17th Street to 24th Street**  
Award a construction services contract for Arizona Avenue Waterline Replacement from 17th Street to 24th Street to the lowest responsive and responsible bidder in the amount of \$1,760,000.00 to DPE Construction, Yuma, Arizona.  
(Engineering-RFB-25-252) (David Wostenberg/Robin R. Wilson)

2. [MC 2025-052](#) **Change Order: Advanced Traffic Management System Software**

Authorize an increase to the contract value for Advanced Traffic Management System (ATMS) Software with Econolite, Anaheim, California, in the amount of \$49,560.00 bringing the total to \$382,808.00, and an annual expenditure of \$35,820.00 for years two through five for software licensing. (Engineering SS-25-117), (David Wostenberg/Robin R. Wilson)

3. [MC 2025-053](#) **Final Plat: La Vida Townhomes**

Approve the final plat for La Vida Townhomes Subdivision. The property is located at the northwest corner of 34th Street and DeVane Drive. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

**Attachments:**

1. [PZ RPT Final Plat: La Vida Townhomes](#)
2. [PLAT Final Plat: La Vida Townhomes](#)

4. [MC 2025-056](#) **Development Loan Agreement: Arizona Housing Development Corporation**

Approve a Development Loan Agreement with Arizona Housing Development Corporation for the Magnolia Gardens Project funded by the U.S. Department of Housing and Urban Development's HOME Investment Partnership and HOME-ARP Programs. (Planning and Neighborhood Services/Neighborhood Services) (Cynthia Blot)

**Attachments:**

1. [HOME Loan Agreement - Council](#)
2. [Attachment 1 - CHDO Including TPP](#)
3. [Attachment 2 - Legal Description](#)
4. [Attachment 3 - Project Schedule copy](#)
5. [Attachment 4 - Site Map](#)
6. [Attachment 5 - Project Budget](#)
7. [Attachment 6 - Scope of Development](#)
8. [Attachment 7 - LURA & Exh A Revised 2.23.25](#)
9. [Attachment 8 - Promissory Note](#)
10. [Attachment 9 - Deed of Trust](#)
11. [Attachment 10 - Insurance Specification](#)
12. [Attachment 11 - Affirmative Marketing and Occupancy Verification - HOME](#)
13. [Attachment 12 - Borrower's Certification](#)
14. [Attachment 13 - Cert of Completion & Exh A](#)

## II. RESOLUTION CONSENT AGENDA

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

1. [R2025-027](#)      **Agreement: Rural Metro Fire Department**  
Authorize the City Administrator to execute an agreement with the Rural Metro Fire Department for use of the City of Yuma's Public Safety Training Facility (PSTF). (Fire Department/Administration) (Chief Fields)  
  
**Attachments:**      [1. RES AGMT: Rural Metro Fire Department](#)  
   [2. AGMT: Rural Metro Fire Department](#)
  
2. [R2025-028](#)      **Development Fee Deferral: Desert Sky Unit No. 3 Subdivision**  
Authorize an agreement to defer City of Yuma development fees and water and sewer capacity charges for Desert Sky Unit No. 3 Subdivision, and to collect a \$500.00 administrative fee for the three-year deferral agreement. (David Wostenberg) (Engineering)  
  
**Attachments:**      [1. MAP Development Fee Deferral: Desert Sky Unit No.3 Subdivision](#)  
   [2. RES Development Fee Deferral: Desert Sky Unit No. 3 Subdivision](#)  
   [3. AGMT Development Fee Deferral: Desert Sky Unit No 3 Subdivision](#)
  
3. [R2025-029](#)      **Development Fee Deferral: Saguaro Unit No. 5 Subdivision**  
Authorize an agreement to defer City of Yuma development fees and water and sewer capacity charges for Saguaro Unit No. 5 Subdivision, and to collect a \$500.00 administrative fee for the three-year deferral agreement. (David Wostenberg) (Engineering)  
  
**Attachments:**      [1. MAP Development Fee Deferral: Saguaro Unit No 5 Subdivision](#)  
   [2. RES Development Fee Deferral: Saguaro Unit No 5 Subdivision](#)  
   [3. AGMT Development Fee Deferral: Saguaro Unit No 5 Subdivision](#)
  
4. [R2025-030](#)      **Preannexation Development Agreement: Crossroads Mission**  
Authorize the City Administrator to execute a Preannexation Development Agreement with Crossroads Mission. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)  
  
**Attachments:**      [1. RES PDA: Crossroads Mission](#)  
   [2. AGR PDA: Crossroads Mission](#)

5. [R2025-031](#) **Intent to Create Municipal Improvement District No. 128: Desert Sands Units 4-6**

Approve the creation of Municipal Improvement District (MID) No. 128 to serve Desert Sands Units 4-6 located at the northwest corner of 48th Street Avenue 8E. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville).

**Attachments:**

1. [RES Intent to Create MID No. 128: Desert Sands Units 4-6](#)
2. [EXH A Intent to Create MID No. 128: Desert Sands Units 4-6](#)

6. [R2025-032](#) **Intent to Create Municipal Improvement District (MID) No. 131: Villa Serena Unit No. 2 Subdivision**

Approve the creation of Municipal Improvement District (MID) No. 131 to serve Villa Serena Unit No. 2 Subdivision located at the northwest corner of Avenue 6E and 48th Street. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville).

**Attachments:**

1. [RES Intent to Create MID No. 131: Villa Serena Unit No. 2 Subdivision](#)
2. [EXH A Intent to Create MID No. 131: Villa Serena Unit No. 2 Subdivision](#)

### III. ADOPTION OF ORDINANCES CONSENT AGENDA

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

1. [O2025-006](#) **Declare Property Surplus and Authorize Transfer and Settlement of Lawsuit: Bill Alexander Ford Lincoln Mercury and BJA Enterprises, LLC**

Authorize the vacation of Bonanza Avenue right-of-way, reserving utility and access easements in the right-of-way, declare the Meinhardt/B-8 Stormwater Basin (subject to certain no-build easements) and the vacated Bonanza Avenue right-of-way (subject to the reserved easements) surplus, and authorize an exchange of the surplus property to Bill Alexander Ford Lincoln Mercury Inc. (Alexander Ford) or its nominee in exchange for a covenant to perform perpetual maintenance and stormwater capacity of the basin property. (City Attorney) (Richard Files)

**Attachments:**

1. [ORD Declare Surplus & Authorize Sale: Bill Alexander](#)
2. [EXH A Declare Surplus & Authorize Sale: Bill Alexander](#)

2. [O2025-009](#)      **Rezoning of Property: Café Main Street Properties, LLC**  
 Rezone approximately 4.18 acres located west of the 7th Street and 21st Avenue intersection, Yuma, AZ from the High Density Residential (R-3) District to the General Commercial (B-2) District. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)
- Attachments:**      [1. P&Z RPT Rezoning of Property: Cafe Main Street Properties, LLC](#)  
[2. ORD Rezoning of Property: Cafe Main Street Properties, LLC](#)
3. [O2025-010](#)      **Rezoning of Property: Calle Ocho Properties, LLC**  
 Rezone approximately 2.5 acres located at 764 S. 21st Avenue, Yuma, AZ from the High Density Residential (R-3) District to the General Commercial (B-2) District. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)
- Attachments:**      [1. PZ RPT Rezoning of Property: Calle Ocho Properties LLC](#)  
[2. ORD Rezoning of Property: Calle Ocho Properties, LLC](#)
4. [O2025-011](#)      **Statutory Compliance Hearing/Amendment: Ordinance O2003-12**  
 Pursuant to A.R.S. § 9-462.01, determine compliance with the conditions of approval for rezoning Ordinance O2003-12, and introduce an ordinance to amend O2003-12 to remove conditions and extend the time to comply with the rezoning conditions. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)
- Attachments:**      [1. P&Z RPT Statutory Compliance Hearing/Amendment: O2003-12](#)  
[2. 2003 ORD Statutory Compliance Hearing/Amendment O2003-12](#)  
[3. MAP Statutory Compliance Hearing/Amendment: O2003-12](#)  
[4. ORD Statutory Compliance Hearing/Amendment: O2003-12](#)

#### IV. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

*Discussion and possible action on the following items:*

1. Appointments:

- Yuma County Library Free Library District Board of Trustees

## 2. Announcements:

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

City Council report of upcoming meetings.

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

## 3. Scheduling:

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

## V. SUMMARY OF CURRENT EVENTS

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

## VI. CALL TO THE PUBLIC

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

## VII. EXECUTIVE SESSION

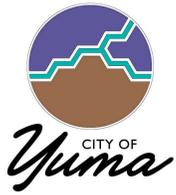
*An Executive Session may be called during the public meeting for the purpose of receiving legal advice for items on this agenda pursuant to A.R.S. Section 38-431.03 A (1, 3, 4 and/or 7) and the following items:*

A. Discussion, consultation with and/or instruction to legal counsel concerning potential litigation. (A.R.S. § 38-431.03 A3, A4 & A7)

B. Discussion, consultation with and/or instruction to legal counsel regarding the railroad crossing at 9E. (A.R.S. §38-431.03 A3 & A4)

**ADJOURNMENT**

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



City of Yuma  
City Council Report

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**File #:** MC 2025-055

**Agenda Date:** 4/16/2025

**Agenda #:** 1.

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**Regular Council Meeting Draft Minutes February 5, 2025**

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

**CALL TO ORDER**

**Mayor Nicholls** called the City Council meeting to order at 5:31 p.m.

**INVOCATION/PLEDGE**

**Deacon Joel Olea**, Immaculate Conception Church, gave the invocation. **Steve Wilson**, Assistant Director of Engineering, led the City Council in the Pledge of Allegiance.

**FINAL CALL**

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

**ROLL CALL**

Councilmembers Present: Morales, Smith, McClendon, Morris, Watts, Martinez, and Mayor Nicholls  
Councilmembers Absent: None  
Staffmembers Present: Acting City Administrator, John D. Simonton  
Director of Planning & Neighborhood Services, Alyssa Linville  
Director of Building Safety, Randall Crist  
Director of Parks & Recreation, Eric Urfer  
Director of Engineering, Dave Wostenberg  
Associate Planner, Meredith Rojas  
Assistant Director of Planning & Neighborhood Services, Jennifer Albers  
Various Department Heads or their representative  
City Attorney, Richard W. Files  
City Clerk, Lynda L. Bushong

Congenital Heart Defects Proclamation

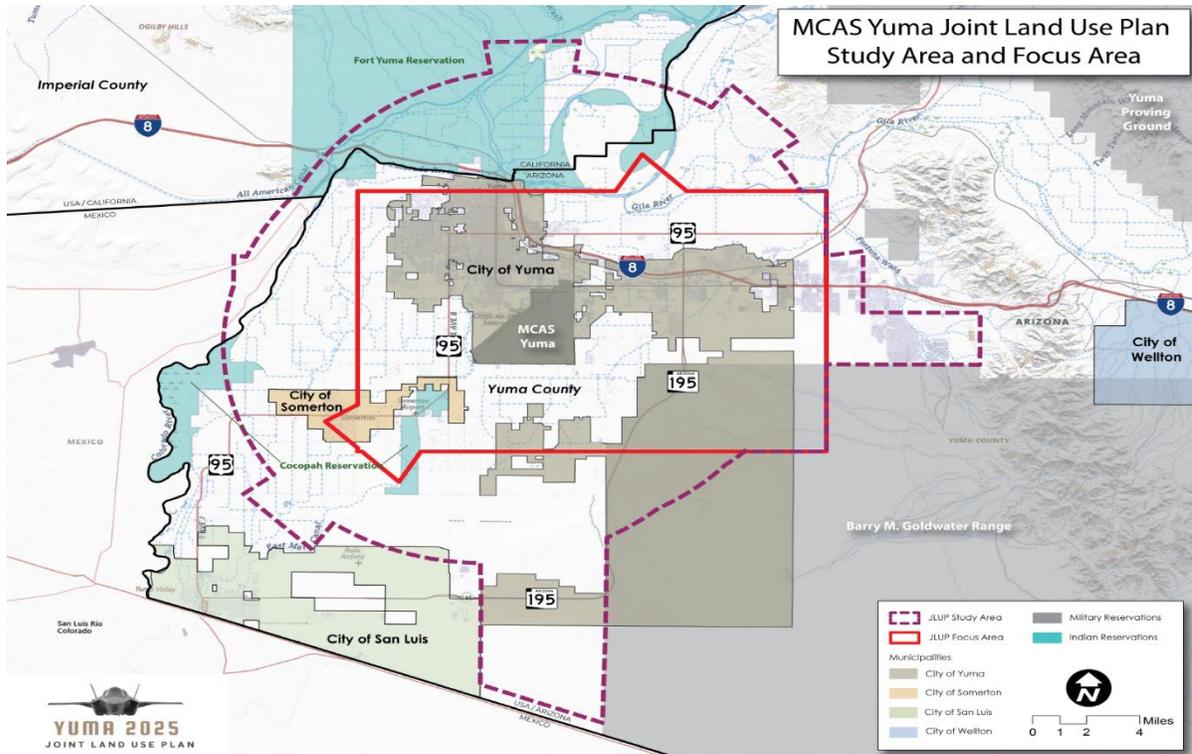
**Mayor Nicholls** read a proclamation declaring the week of February 7<sup>th</sup> through February 14<sup>th</sup>, 2025, Congenital Heart Defect Awareness week throughout the City of Yuma and designating February 12, 2025, as a day to wear purple to increase public awareness and encourage support for families impacted by congenital heart defects.

Joint Land Use Plan Update

**Linville** introduced **Tyson Smith**, Certified Planner with White Smith Cousino Planning Firm, to give an update of the progress of the Joint Land Use Plan (JLUP).

- Introduction
  - Joint Land Use Planning is evaluation and consideration of land uses that are occurring at a military installation, and civilian land uses that are occurring outside of the military installation and how they interface

- Most Joint Land Use Plans interface easily; the ones that do not can impact the community and can affect the operations at a military installation
- Participating entities include City of Yuma, City of Somerton, Yuma County, Marine Corps Air Station-Yuma (MCAS), and the Barry M. Goldwater Range (BMGR)



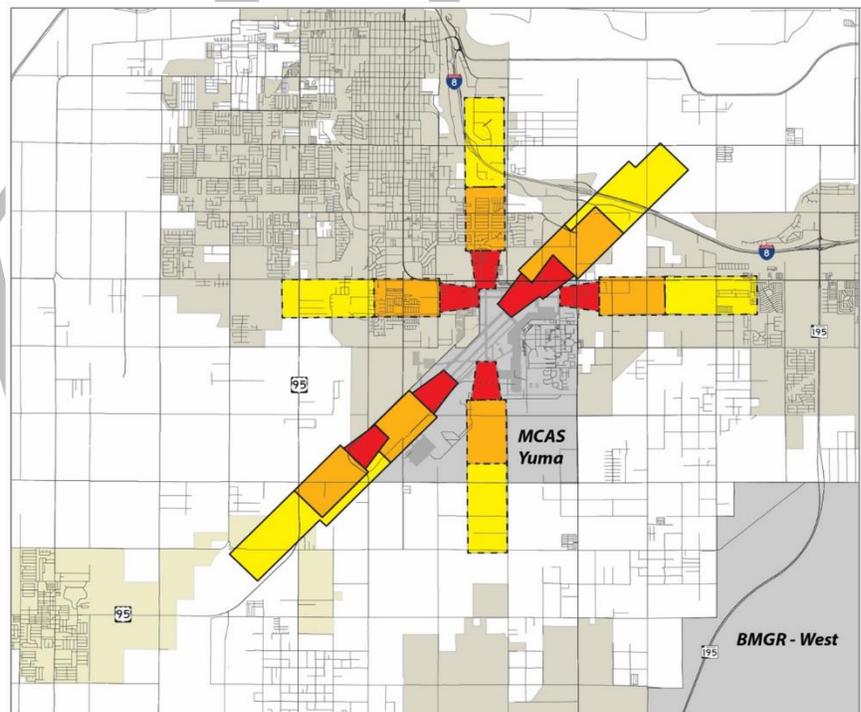
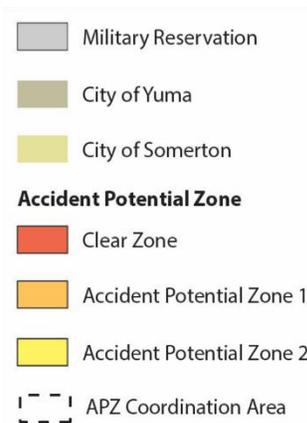
- Prior State & Local Findings
  - In 1990 the State of Arizona passed statutes that require local governments in military jurisdictions and near military installations to plan for military uses
  - In 1996 the City of Yuma conducted a Joint Land Use Plan, and in 2002 adopted the first Airport Overlay District related to military
  - In 2004 the City of Yuma as well as Yuma County adopted density regulations within one mile of the BMGR
  - In 2005 additional Joint Land Use Plans were undertaken
  - In 2019 production of the Air Installations Compatible Use Zones (AICUZ) study, a report produced by the military as an update of what is happening on the ground in terms of military impacts and the recommendations to ensure compatibility
  - Noise Zones
    - The current noise zones have been in place since 2002 and are not recommended to be changed at this time. This is a recommendation by the AICUZ report and MCAS
  - Accident Potential Zones
    - Areas at the end of the runway where accident potential is greater
    - Regulations limit the consolidation of people and of property improvements
    - The recommendation of the Steering Committee and MCAS is to make no changes to regulating the accident potential zones that are on the current parallel runways

- Barry M. Goldwater Range
  - The BMGR one mile buffer around the range is at a density in the Comprehensive Plan of one unit per two acres
  - The BMGR 0.5-mile buffer around the range is at a density in the Comprehensive Plan of one unit per five acres
  - No changes proposed to City's range (density) buffer
  - This area will be revisited soon to look at current operations at the installation and current densities
- Flat Tail Horned Lizard
  - The issue with the Flat Tail Horned Lizard is not as relevant as first thought
  - The military installation is under orders to do construction related to the border wall; if there is a habitat present in the area one mile north of the range, the installation will limit their acquisition activities to not conflict with growth areas

**Vaughn Hanson**, Planner with White, Smith, Cousino Planning Firm, presented the following:

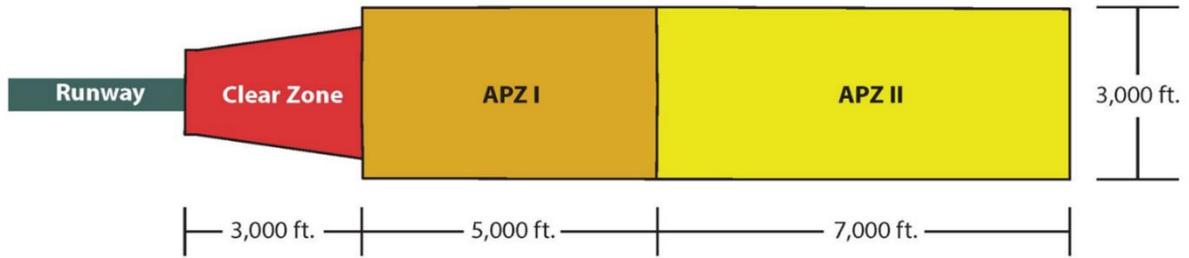
- Overview of Compatibility Issues
  - Aircraft Accident Potential
    - Applied from a regulatory perspective off the ends of Runways 321, left and right
    - There will be ongoing coordination with regard to the other runways

## Aircraft Accident Potential



- Runways extend with the trapezoidal clear zone from the end of the runway in the Accident Potential Zone (APZ) I and APZ II
- Extend approximately 15,000 feet at a width of 3,000 feet from the end of each runway by Department of Defense (DOD) policy

### Accident Potential Zone Diagram (US Navy / USMC)



- Generalized APZ Compatible Use Recommendations
  - This is a simplified version of a much more detailed compatible land use chart that shows the areas most proximate to the runway are in the clear zones proceeding through APZ I and APZ II
  - The types of land uses that are compatible within those areas essentially become more dense or more intensive as you get further away from the end of the runway
  - Other land use allowed by the local zoning regulation is fine and generally compatible

### Generalized APZ Compatible Use Recommendations

Land Use	Clear Zone	APZ I	APZ II
Manufacturing	N	C	C
Trans., Comm., and Utilities	C	Y	Y
Wholesale Trade	N	C	C
Warehousing and Storage	N	C	C
Auto & Building Supply Sales	N	C	C
Neighborhood Retail	N	N	C
Single Family Dwellings	N	N	C
Multi-Family Dwellings	N	N	N
Mass Retailing	N	N	N
Restaurants, Full Service	N	N	N
Restaurants, Quick Serve	N	N	C
Office and Service Uses	N	N	C
Government Services	N	N	C
Educational Services	N	N	N
Cultural Activities	N	N	N
Medical Services	N	N	N
Churches	N	N	N
Outdoor Recreation	N	N	C
Assembly Uses	N	N	N
Agriculture & Livestock	Y	Y	Y
Forestry Activities	N	Y	Y
Permanent Open Space	Y	Y	Y

Y = Recommended    C = Conditionally Compatible    N = Incompatible

- Aviation Noise Zones
  - Recommendation has been made to maintain what is known as the Van Houten Noise Contours, a 1978 aircraft noise study, and not amend it through this process
  - Contours from a low of 65 decibels through a high of 75 plus decibels were established with the original Air Quality Study
- Compatible Use Recommendations
  - The DOD recommended compatible land uses that go from the 65 decibel level up through 85 decibels in the compatibility guidance
  - Areas with the highest noise levels would be potentially incompatible with some development, whereas in the lower noise contours there are more land uses
  - Although DOD guidance does not particularly encourage residential use in the 65-decibel contour, there are local regulations that will allow it

## Generalized Aviation Noise Zone Compatible Use Recommendations

Land Use	Noise Level (DNL)				
	65 to 69 dBA	70 to 74 dBA	75 to 79 dBA	80 to 84 dBA	85+ dBA
Residential	C	N	N	N	N
Manufacturing	Y	C	C	C	N
Retail – General	Y	C	C	N	N
Restaurants	Y	C	C	N	N
Personal Services	Y	C	C	N	N
Hospitals	C	C	N	N	N
Government	C	C	C	N	N
Education	C	C	N	N	N
Public Assembly	Y	N	N	N	N
Parks	Y	C	N	N	N
Agriculture	Y	Y	Y	Y	Y

Y = Recommended    C = Conditionally Compatible    N = Incompatible

- 14 Code of Federal Regulations (CFR) Part 77 - Imaginary Surfaces
  - Part 77 Imaginary Surfaces are areas around each of the runways that extend up and out from the runways in accordance with established Federal Aviation Administration (FAA) protection areas where the FAA’s Office of Obstruction Evaluation Airport Airspace Analysis looks to determine whether tall structures would pose a threat or a hazard to safe aerial navigation; this was an additional type of compatibility issue that was looked into
  - Existing land use patterns, current zoning regulations including overlays, and adopted future land use maps of each of the jurisdictions participating in the study were looked at to determine the degree of compatibility.
  - From an overall perspective, existing land use compatibility, especially in the regulated APZ’s and the noise zones, is good

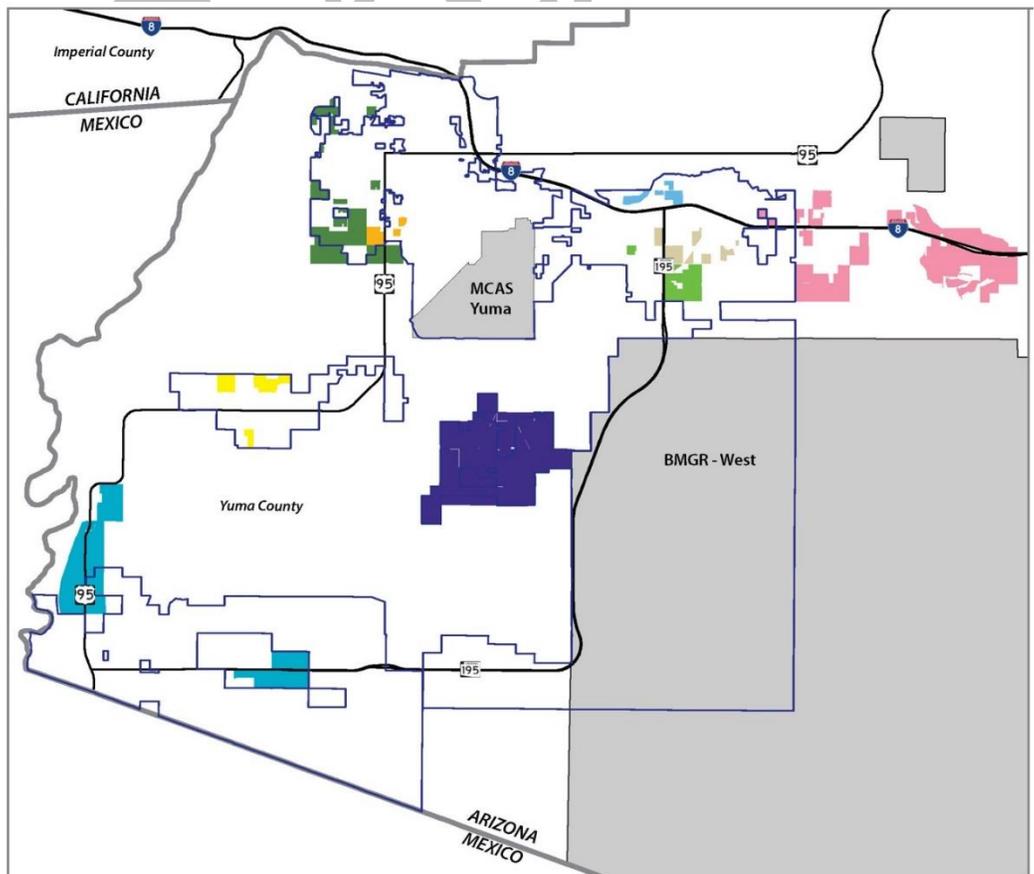
- From a policy perspective the City's adopted zoning and future land use maps are pretty good as well
- There currently are different levels of regulations between the City of Yuma, City of Somerton, and Yuma County, but essentially any development within a certain distance of the airport over a certain height is required to go through the FAA process to get a determination for them as to whether it would pose a hazard; different types of local regulations can restrict that if it is found to be a hazard
- **BMGR Range Buffer**
  - Looking at the BMGR Range Buffer from a compatibility perspective regarding the current adopted policy of density restrictions in place, it was found that except for the Fortuna Foothills area, the parcels have not been subdivided to the point of exceeding density limitations of one dwelling unit per two acres or one dwelling unit per five acres
  - An increase of Unmanned Aircraft Systems was also an emerging issue that was looked at; through work groups and discussions with MCAS, existing compatibility issues related to the growth in that type of operations was not found
- **Housing Assessment**
  - **Assessment Purpose & Goals**
    - The purpose of the Housing Study / Needs Assessment is generally set forth in Task 5 of the MCAS Yuma Joint Land Use Plan scope of work:
      - Analyze existing and projected housing trends to determine existing and future housing needs for the region, which encompasses the Yuma Metropolitan Area (having the same boundaries with Yuma County)
      - Document housing demands for MCAS Yuma civilian and military personnel and those working for other regional employers
      - Compare those demands to existing and expected supply to forecast the gap that is anticipated to exist between supply and demand
      - Identify regulatory challenges and opportunities at the state and local level and recommend actions to address the anticipated housing supply gap
      - Explore goals and policies of local comprehensive plans to determine if proposed growth areas can accommodate demand
      - Formulate regional housing priorities, particularly those that align with transit opportunities
      - Identify requirements for local actions and planning in the context of producing needed housing for the region
  - **Population Projection and Initial Capacity/Gap Findings**
    - For the purpose of the housing assessment, the Arizona Office of Economic Opportunities (AOEO) medium growth projection for the area through 2045 was used
      - There is a limited supply of privately held non-agricultural land available for residential development, particularly in southwestern Yuma County
      - Medium growth rate population projection forecasts 60,000 new residents in Yuma County by 2045
      - Based on current average household size in the County, accommodating growth will require occupancy of 22,000 additional dwelling units
      - Historic residential permitting trends indicate that continuing at the average pace of building could accommodate growth, if sufficient land is available for development

- Land Supply Analysis
  - Objective Land Supply Analysis Steps
    - A reductive analysis through a nine-step process was used based on the following criteria:
      - Suitable land for agricultural purposes
      - Military compatible land use
      - Access to utilities
      - Certain types of ownership
  - Objective Land Supply Analysis Results
    - Land supply found about 8,000 acres of land that had not been entitled or otherwise encumbered
    - A moderate, medium density type residential development of four dwelling units per acre generates 32,000 dwelling units
  - Land Supply Policy Analysis
    - Looked at plans for each city and the county’s Comprehensive Plan to establish which parcels were intended for residential growth in the future
    - An analysis was done of the density recommended for the parcels using the Land Use Maps, as well as areas around the City of Yuma that are not in the sub-growth areas but have been designated for residential future land use; total acres of land was about 13,500
    - With the assigned densities in each of the plans, the total population that can be accommodated by policy is around 227,000 additional residents
    - With either type of analysis, the real issue is being able to obtain land at a reasonable price to support development needs

### Land Supply Policy Analysis

General / Comprehensive Plan Residential Growth Parcels

- Yuma County
- City of Somerton
- City of San Luis
- City of Yuma*
- Estancia
- Araby Road
- Laurel
- Avenue B & 32nd Street
- Additional Agricultural Lands <sup>1</sup>*
- East Mesa
- Yuma Valley



Total = 13,500 acres

- Additional Findings
  - Local regulatory environment and development administration is perceived positively by the real estate and development community
  - Early signs that changes in the size/composition of the seasonal population may be occurring
  - Significant share of “vacant” housing (20%) is two times the national rate, with 12,500 units classified as vacant due to seasonal occupancy
  - Over 11,000 officially “vacant” manufactured homes (over ½ of vacant housing stock)
  - Land supply constraints have caused a significant increase in the pricing point of land for residential development
    - Agricultural land is difficult to convert due to market pressures
    - State trust lands are cumbersome to obtain through auction and there is significant competition for land in areas with high development pressure
  - Premature development in areas without water and sewer access has led to inefficient residential development patterns that have artificially reduced development potential
  - Low rate of construction activity of for-rent multi-family housing – only 5% of permitted dwelling units between 2003 and 2023
  - Yuma County also has only 5% of its overall housing stock in multi-family housing, that is about 20% or 1/5 of what the average communities across the United States have
    - Low prevailing rental rates and limited new construction to demonstrate potential for success in the market for new projects
    - Lack of local capital for large scale multi-family projects
    - High material and labor costs due to distance from major markets
  - Demand for higher-end rental housing of all types are not meeting current demand – effects are being felt in employee retention
    - Not affecting initial recruitment, but affecting how some people perceive the housing market
  - A large share of households in the rental market are cost burdened; this is generally reflective of national cost-burden trends
    - The cost has increased since the 2021 and 2022 housing studies
    - Compared to the national average, Yuma is much more like the rest of the country in terms of housing costs and percentage of gross income that both renters and homeowners are having to expend
  - The requirement for H2-A; Temporary Agricultural Program, visa employers to provide housing for employees has led to significant changes in the lower end of the rental market
    - Leasing large blocks of, or entire, apartment complexes
    - Purchasing entire multi-family rental properties (and lodging)
    - Developing purpose-built multi-family employee housing

**Smith** presented the following:

- Public and Stakeholder Involvement
  - Two committees guiding this project
    - Technical Committee
      - Made up of staff of various agencies
    - Steering Committee
      - Policy level
      - Will decide the final form of the report and its recommendations

- Public Outreach Plan
  - Three public sessions so far; two additional planned
  - Community questionnaire
  - Public live polling exercise
  - Agencies fact-finding exercise
- Next Steps
  - March – May Steering Committee recommendations
  - Final JLUP update report
  - Steering Committee to finalize recommendations
  - Public outreach and input
  - JLUP report prepared & confirmed by Steering Committee
  - Cities and Yuma County consideration of report and resolutions of support

#### Discussion

- The concern among the development community, and the real estate community, is that if acquisition efforts go into all areas, it would potentially conflict with the development of housing and commercial uses. To address that concern, MCAS – Yuma has said they are focusing their acquisition in their study areas only. The committee will decide if this information will be included on the report. **(Mayor Nicholls/Smith)**

#### **I. MOTION CONSENT AGENDA**

Motion Consent Agenda Item C.1 – Bid Award: Yuma Civic Center Electrical Infrastructure Upgrades (Award a construction services contract for Yuma Civic Center Electrical Infrastructure Upgrades to the lowest responsible bidder in the amount of \$294,423.80 to Merrill Development, Inc., Yuma, Arizona) (RFB-25-069) (Eng/Proc)

**Mayor Nicholls** declared a conflict of interest on Motion Consent Agenda Item C.1, due to his firm’s involvement, turned the meeting over to **Deputy Mayor Smith**, and left the dais.

#### Discussion

- The exact same services are provided by the two vendors with the lowest bids for this project. **(Morris/Crist)**

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

**Mayor Nicholls** returned to the dais.

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Motion Consent Agenda Item C.5 – Final Plat: Desert Ridge Townhomes (Approve the final plat for the Desert Ridge Townhomes, located at the southeast corner of Avenue 7½ E and 24<sup>th</sup> Street) (SUBD-43520-2024) (Cmty Plng)

**Morris** declared a conflict of interest on Motion Consent Agenda Item C.5 due to his firm’s involvement and left the dais.

**Motion** (Deputy Mayor Smith/Watts): To approve Motion Consent Item C.5 as recommended. Voice vote: **approved** 6-0-1, **Morris** abstaining due to conflict of interest.

**Morris** returned to the dais.

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Motion Consent Agenda Item C.3 - Contract Increase: East Mesa Community Park, Phase 1 (Authorize a contract increase for additional shade structures and a sensory playground added to the park, from a grant and donations in the amount of \$739,665.12 for a total expenditure of \$17,953,037.69 to Gutierrez Canales Engineering, PC, Yuma, Arizona) (RFQ-23-258 (Pks & Rec/Eng/Proc))

Discussion

- Funds for the additional shade structures and the sensory playground equipment that will be added to the East Mesa Community Park were all from grants and donations. \$500,000 was grant funded by the Land and Water Conservation Fund and \$280,000 was donated by Onvida Health to specifically pay for a space within the playground area that did not make it into the base bid, which was the sensory play place. (**Watts/Urfer**)
- There were several alternates for shade structures that did not make it into the base bid. The additional shade structures to be added are the shade structures that are over the main playground structures to shade the entire playground. (**Watts/Urfer**)
- Phase 1 of the project has broken ground and is anticipated to be completed by March of 2026, if the project goes according to plan. (**McClendon/Urfer**)
- Canales Engineering let us know that additional funding to add water features to Phase 1 of the project should be received by the contractor no later than August of this year to avoid delays. (**Morales/Urfer**)

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Motion Consent Agenda Item C.4 – Endowment Acceptance: Jones and Brigida Osborn Trust (Accept the Jones and Brigida Osborn \$1 Million Legacy Gift to benefit the City of Yuma Parks and Recreation Department in the form of annual disbursements from the Jones and Brigida Osborn Charitable Remainder Annuity Trust) (Pks & Rec/Fin)

Discussion

- About 20 years ago the Osborne family established a trust at the Arizona Community Foundation in the form of an endowment specifically to benefit the City of Yuma Parks and Recreation Department. The City is allowed 4% annually of the trust balance to be spent specifically for Parks and Recreation. (**McClendon/Urfer**)
- There are currently a couple of different options being considered for the money the Parks and Recreation Department will be receiving. The first option is the potential of leveraging the funds to help with grant applications. The second option is to deposit the money in the bank for three years and collect enough money to be able to purchase an amenity. (**McClendon/Urfer**)
- Standard Operating Procedures will be developed to decide how the money will be expended. The Parks and Recreation Commission and City Administration will be involved in the decision. City Council will oversee purchases over \$100,000.00. (**McClendon/Urfer**)
- Kudos to Urfer and Simonton for their efforts in trying to find different ways and resources for immediate use of the monies being received. (**Morales**)

**Motion** (Morris/Morales): To approve the Motion Consent Agenda as recommended, with the exception of Item C.1 and C. 5, which were adopted through a previous vote. Voice vote: **approved** 7-0.

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

Regular Council Meeting Minutes	December 4, 2024
Regular Council Meeting Minutes	January 15, 2025

B. Executive Session

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

C. Approval of Staff Recommendations

1. Pulled for separate consideration; see above.
2. Authorize the purchase of an EzLiner roadway line-striper by utilizing a cooperative purchase agreement from Sourcewell, for an expenditure of \$343,965.00 to Western Territory Sales, Phoenix, Arizona. (CPA-25-249) (Publ Wks/Proc)
3. Authorize a contract increase for additional shade structures and a sensory playground added to the park, from a grant and donations in the amount of \$739,665.12 for a total expenditure of \$17,953,037.69 to Gutierrez Canales Engineering, PC, Yuma, Arizona. (RFQ-23-258) (Pks & Rec/Eng/Proc)
4. Accept the Jones and Brigida Osborn \$1 Million Legacy Gift to benefit the City of Yuma Parks and Recreation Department in the form of annual disbursements from the Jones and Brigida Osborn Charitable Remainder Annuity Trust. (Pks & Rec/Fin)
5. Pulled for separate consideration; see above.

II. RESOLUTION CONSENT AGENDA

**Motion** (McClendon/Deputy Mayor Smith): To adopt the Resolution Consent Agenda as recommended.

**Bushong** displayed the following title(s):

**Resolution R2025-001**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement for the joint operation and use of a Regional School Safety System and Program between the City of Yuma and Antelope Union High School District No. 50** (to provide terms and conditions for the joint use and operation of the School Safety Interoperability System) (IT)

**Resolution R2025-002**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement for the Joint Operation and use of a Regional School Safety System and Program between the City of Yuma and Hyder School District No. 16** (to provide terms and conditions for the joint use and operation of the School Safety Interoperability System) (IT)

**Resolution R2025-003**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement for the joint operation and use of a Regional School Safety System and Program between the City of Yuma and Yuma Elementary School District No.1 (to provide terms and conditions for the joint use and operation of the School Safety Interoperability System) (IT)**

**Resolution R2025-004**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement for the joint operation and use of a Regional School Safety System and Program between the City of Yuma and Yuma Union High School District No. 70 (to provide terms and conditions for the joint use and operation of the School Safety Interoperability System) (IT)**

**Resolution R2025-005**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement with the State of Arizona for the preliminary design of the 3<sup>rd</sup> Street Bridge at the East Main Canal (utilizing Arizona Department of Transportation (ADOT) Off System Bridge (OSB) program to help with administering and funding the improvement of the City's existing infrastructure) (Eng)**

**Resolution R2025-006**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement with the State of Arizona for the Preliminary Design of the 4E Bridge at the B Lateral Canal (utilizing ADOT's OSB program to help with administering and funding the improvement of the City's existing infrastructure) (Eng)**

**Resolution R2025-008**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing the City of Yuma to enter into an Intergovernmental Agreement with the Arizona Board of Regents, on behalf of Arizona State University and its Center for Violence Prevention and Community Safety (to allow the City of Yuma to share data regarding violent deaths with the Center for Violence Prevention) (YPD)**

**Resolution R2025-009**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an agreement with the State of Arizona Department of Homeland Security to establish policies and procedures for participation in the Statewide Cyber Readiness Program (to improve the City's ability to detect, prevent, and respond to cyber threats) (IT)**

**Resolution R2025-010**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving terms and conditions for Yuma Regional Communication Systems Member Agencies for Arizona Western College Police department (for Arizona Western College Police Department to become a Yuma Regional Communication System (YRCS) member agency) (IT)**

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

### III. ADOPTION OF ORDINANCES CONSENT AGENDA

**Motion** (McClendon/Deputy Mayor Smith): To adopt the Ordinances Consent Agenda as recommended.

**Bushong** displayed the following title(s):

#### **Ordinance O2025-001**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in the Agriculture (AG) District to the Light Industrial (L-I) District, and amending the zoning map to conform with the rezoning (0.85 acres located at 4454 E. 40<sup>th</sup> Street) (Plng & Nbhd Svcs)**

#### **Ordinance O2025-002**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in the General Commercial/Aesthetic Overlay (B-2/AO) District to the Medium Density Residential/Planned Unit Development (R-2/PUD) District, and amending the zoning map to conform with the rezoning (9.74 acres located at the northwest corner of 34<sup>th</sup> Street and DeVane Drive) (Plng & Nbhd Svcs)**

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

### IV. INTRODUCTION OF ORDINANCES

Ordinance O2025-004 – Easement – Latter - Day Saints Property Easement (Authorize the acceptance of real property from The Jacobson Companies, Inc., an Arizona Corporation) (Eng)

#### Discussion

- The easement is for access to public utilities that will be installed on that road to satisfy the future building of The Church of Jesus Christ of Latter-day Saints Temple. There could possibly be a footprint of a future public road, but as of right now it is only for access of public utilities. (**Mayor Nicholls/Wostenberg**)

**Bushong** displayed the following title(s):

#### **Ordinance O2025-004**

**An ordinance of the City Council of the City of Yuma, Arizona, authorizing the acceptance of Gift Property (acceptance of real property from The Jacobson Companies, Inc. for access and utilities to new property for The Church of Jesus Christ of Latter-day Saints Temple) (Eng)**

### V. PUBLIC HEARING AND RELATED ITEMS

Resolution R2025-011 – Minor General Plan Amendment: Southeast Corner of State Route SR-195 and 40<sup>th</sup> Street (following a public hearing, approve the request to amend the City of Yuma General Plan to change the land use designation from Medium Density Residential to High Density Residential) (Plng & Nbhd Svcs/Cmty Plng)

**Morales** declared a conflict of interest on Resolution R2025-011 and left the dais.

**Mayor Nicholls** opened the public hearing at 6:18 p.m.

**Rojas** presented the following information relating to a minor General Plan amendment request. The property is located at the southeast corner of State Route SR-195 and 40<sup>th</sup> Street.

#### Case Summary

- Proposed change: Medium Density to High Density Residential
- Area: Approximately 14.5 acres
- Surrounding Land Uses:
  - North – Undeveloped
  - South and East – Undeveloped area and Agriculture
  - West – SR-195 and Single-family residences (Ocotillo Subdivision)
- Public Comments:
  - 37 neighboring properties owners within 660 feet were notified
  - No comments received
- Development Potential
  - Dwelling units – Between 189 and 435 units
  - Population – Potential increase to 827 persons
  - Proposed project – Pursue a rezone to High Density Residential R-3 Zoning District for future multi-family development
- The planning and Zoning Commission recommended approval of this request on January 13, 2025.

#### Discussion

- High Density Residential land use designation allows between 13 to 30 dwelling units per acre. This property is 14.5 acres, allowing for more dwelling units to be built. (**Watts/Rojas**)
- The current land use designation for the property is Medium Density Residential, allowing between 73 and 187 units to be built. This is a requirement of the land use designation, and not a requirement of the project. (**Watts/Rojas**)

**Motion** (Deputy Mayor Smith/Watts): To close the Public Hearing. Voice vote: **approved** 6-0-1, **Morales** abstaining due to conflict of interest.

The Public Hearing closed at 6:21 p.m.

**Motion** (Morris/McClendon): To adopt the Resolution R2025-011 as recommended.

**Bushong** displayed the following title(s):

#### **Resolution R2025-011**

**A resolution of the City Council of the City of Yuma, Arizona, amending resolution R2022-011, the City of Yuma 2022 General Plan, to change the land use designation of approximately 14.5 acres at the Southeast Corner of State Route SR 195 and 40<sup>th</sup> Street from Medium Density Residential to High Density Residential (approval of Desert Ridge Townhomes subdivision) (Cmty Plng)**

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

**Morales** returned to the dais.

## VI. CONDITIONAL USE PERMIT APPEAL

**Mayor Nicholls** opened the Conditional Use Permit Appeal proceedings at 6:27 p.m.

**Jon Paladini**, City of Yuma Legal Counsel, explained the structure of deciding on a conditional use permit appeal and shared some background for conditional use permits.

### Discussion

- It was not the intent to display the seven criteria during the presentation. The criteria was included in the staff report. (**Morris/Albers**)

**Albers** presented the following:

- This is a hearing to consider the appeal of Gregory O’Neal for the approval of the Planning and Zoning Commission conditional use permit to allow a large company housing complex at the southwest corner of Avenue 6E and 30<sup>th</sup> Street.
- On October 9<sup>th</sup>, 2024, a Conditional Use Permit Request was submitted by Avila Construction on behalf of Tanimura and Antle.
- On December 9, 2024, the Planning and Zoning Commission approved that request following public comment.
- On December 12<sup>th</sup>, 2024, Mr. Gregory O’Neal filed an appeal of the decision pursuant to City Code stating all decisions of the Planning and Zoning Commission are appealable to the City Council with all subsequent written materials submitted on January 3, 2025.
- On January 13, 2025, Tanimura and Antle submitted a reply to Mr. O’Neil’s statements

### Discussion

- On this appeal it is the burden of the appellant to prove the Planning and Zoning Commission was in error and that one or more of the seven requirements that need to be found were not established at the Planning and Zoning Commission Board hearing. The appellant’s written brief has been read by City Council and can be considered to determine if the brief itself is sufficient to overturn the Commission’s decision. If the brief is not sufficient to overturn the commission’s decision the applicant/appellees presentation can move forward, if City Council would like, and then proceed to a vote. (**Paladini**)
- Since the appellant is absent and the meeting has been opened, for transparency we are okay to proceed with the applicants 10-minute presentation. (**Mayor Nicholls**)

**Leslie Van Camp**, Vice President and General Counsel of Tanimura and Antle, along with **Jeffery Nohr**, Tanimura and Antle Project Manager, presented the following:

- Tanimura and Antle was a partnership for grower shippers that started in 1982 by George Tanimura and Bob Antle
- In 1988 Tanimura & Antle incorporated, and the operation expanded to encompass 12,000 acres of fresh vegetables grown in Yuma, Arizona
- Approximately one million cases of produce are shipped around the nation each week from the Yuma, Arizona cooler when in season
- Produce season runs from November to about mid-April, sometimes the first part of May
- In 2008 Tanimura & Antle began bringing in workers from the H-2A visa program where agricultural employers hire workers from other countries for temporary labor or seasonal work
- A requirement as an employer of H-2A workers is to provide company housing

- This project is brand new construction of company housing that meets all the requirements of a large company housing project
- The zoning requirements and conditions of approval have all been met
- The housing project is 186 two-bedroom, two-bathroom units
- Background checks are conducted to be able to join the H-2A workforce
- If for any reason an H-2A worker has been terminated by the company or has any problems with the law, their contract is terminated, and they are sent back to their home country
- Since 2008 Tanimura and Antle has owned two company housing, converted apartment buildings in Yuma, with no issues

### Discussion

- This project is comparable to the housing project Tanimura & Antle has done in Salinas, CA. For the audience to understand, the H-2A employees are Tanimura & Antle employees. Normally in this industry it is customary to subcontract or there is a third party that hires labor, but in this case Tanimura & Antle does the vetting process and monitors the employees. **(Morales)**
- The 800 to 850 H-2A workers Tanimura & Antle currently employs are spread out. About 400 employees are at the Park View Apartments and the Aloha Apartments, in units owned by Tanimura & Antle. The remainder of employees are living in motels. Once the housing project is complete, employees will be able to move out of the motel rooms and into living spaces with amenities. **(Watts/Van Camp)**
- It is great to see that the company that owns the Parkview Apartments will be in charge of building the new housing. Farm worker housing is in critical need, and it is wonderful to see that the company is investing in housing for their employees. These are essential workers for food supply. **(Deputy Mayor Smith)**

**Motion** (Morris/Morales): I find that all seven (7) of the necessary Conditional Use Permit criteria were present, therefore, I move to affirm the Planning and Zoning Commission's decision and approve Conditional Use Permit CUP-43322-2024 for the property located at the southwest corner of Avenue 6E and E. 30<sup>th</sup> Street.

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

## VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

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

- Martin Luther King Jr. Walk
- League of Arizona Cities and Town Legislative Update via Zoom
- H.L. Suverkrup Elementary School Career Fair
- Yuma Metropolitan Planning Organization Executive Board Meeting
- Somerton High School Career and Technical Education Family Night
- Chamber of Commerce's Annual Dinner Gala & Chance Auction
- Arizona Historical Society Redondo Day Dinner & Auction
- Geocaching Block Party
- City of Yuma and Yuma County Joint Worksession Meeting
- Greater Yuma Economic Development Corporation Luncheon
- Soft Opening Eddies Food & Drink

- Greater Yuma Port Authority Board Meeting via Zoom
  - Joint Land Use Plan Meeting
  - Regional Center for Border Health Hospital Groundbreaking
  - Clean and Beautiful Commission Meeting
  - Arizona Western College Student Etiquette Lunch Committee
  - Community Development Block Grant Meeting
  - United Yuma Firefighters Association Meeting
  - American with Disabilities Act Commission Meeting
  - Onvida Hospital White Coat Shadowing
  - Wild West Days at Yuma Territorial Prison
  - Public Safety Personnel Retirement System Meeting
  - Neighborhood Leadership Academy Meeting
  - Yuma County Agriculture Water Coalition and Agribusiness & Water Council of Arizona Steak & Chuck Dinner
  - United States Conference of Mayors, 93<sup>rd</sup> Mayors Winter Meeting, Washington, D.C.
  - Chamber of Commerce Member Mixer
  - Yuma County Fair Board Meeting
  - 4<sup>th</sup> Avenue Beautification Project Meeting
  - Reception Hosted by Colonel Stone of MCAS - Yuma
- 

#### Scheduling

- Councilmember **McClendon** asked for a briefing from the City of Yuma Fire Chief and his staff at a future City Council meeting to address the issue of staying in compliance with Arizona Health Services regarding the delays of EMS calls. **McClendon** also asked for an update on the Smucker Park project to share with the community.

#### **VIII. SUMMARY OF CURRENT EVENTS**

**Simonton** reported the following events:

- February 26, 2025 – City of Yuma Career Fair
- January 27<sup>th</sup> to April 3<sup>rd</sup> – Annual Neighborhood Cleanup

**Simonton** reminded the community that City Hall will be closed on February 17, 2025, due to the Presidents Day holiday. The holiday will delay the refuse schedule by one day.

**IX. EXECUTIVE SESSION/ADJOURNMENT**

**Motion** (Morales/McClendon): To adjourn the meeting to Executive Session. Voice vote: **approved** 7-0.  
The meeting adjourned at 7:06 p.m.

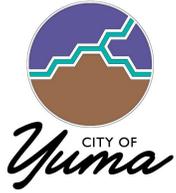
\_\_\_\_\_  
Lynda L. Bushong, City Clerk

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:  
\_\_\_\_\_  
City Clerk: \_\_\_\_\_

DRAFT



City of Yuma  
City Council Report

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**File #:** MC 2025-054

**Agenda Date:** 4/16/2025

**Agenda #:** 2.

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**Regular Council Worksession Draft Minutes March 18, 2025**

**MINUTES**  
**REGULAR CITY COUNCIL WORKSESSION**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS - YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**March 18, 2025**  
**5:30 p.m.**

**CALL TO ORDER**

**Mayor Nicholls** called the Regular City Council Worksession to order at 5:30 p.m.

Councilmembers Present: Martinez, Morris, McClendon, Smith, Morales, Watts, and Mayor Nicholls  
Councilmembers Absent: None  
Staffmembers Present: Acting City Administrator, John D. Simonton  
Deputy City Administrator, Jennifer Reichelt  
Engineering Manager, Jerry Anaya  
Assistant Director of Engineering, Steve Wilson  
Various department heads or their representatives  
City Attorney, Richard W. Files  
Deputy City Clerk, Janet L. Pierson

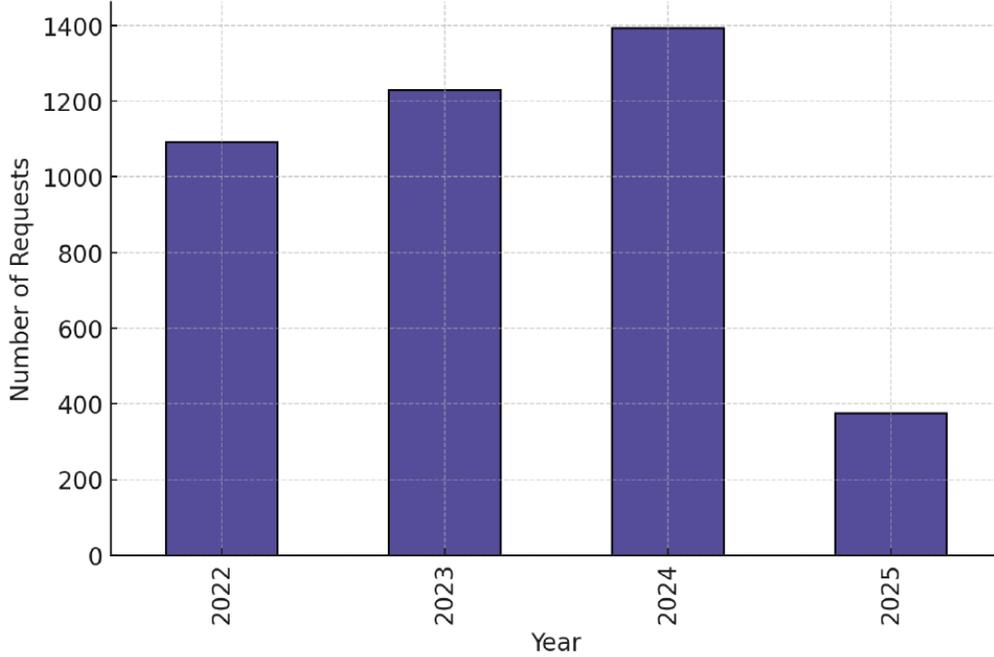
**I. YUMA CLICK AND FIX UPDATE**

**Reichelt** provided the following update on the Yuma Click and Fix program:

- About Yuma Click & Fix (YCF)
  - YCF launched on March 2, 2022
  - Community driven communication tool and request management system
  - Provides residents with a tool to submit non-emergency service requests and concerns to the City
  - Residents can communicate with the City, while receiving real-time updates on the status of their request
- How It Works
  - Users report issues like potholes, damaged street signs, graffiti, street light issues, park maintenance and more
    - Users can upload images
    - Users can also use the Global Positioning System (GPS) within the program to provide location details
  - Users receive an immediate response letting them know their issue has been received
  - Provides real-time status updates
  - Can be accessed online via the City's website or by downloading the app (Google Play & Apple Store)
- General Trends
  - 500 YCF registered users
    - Users do not have to create an account to submit a request

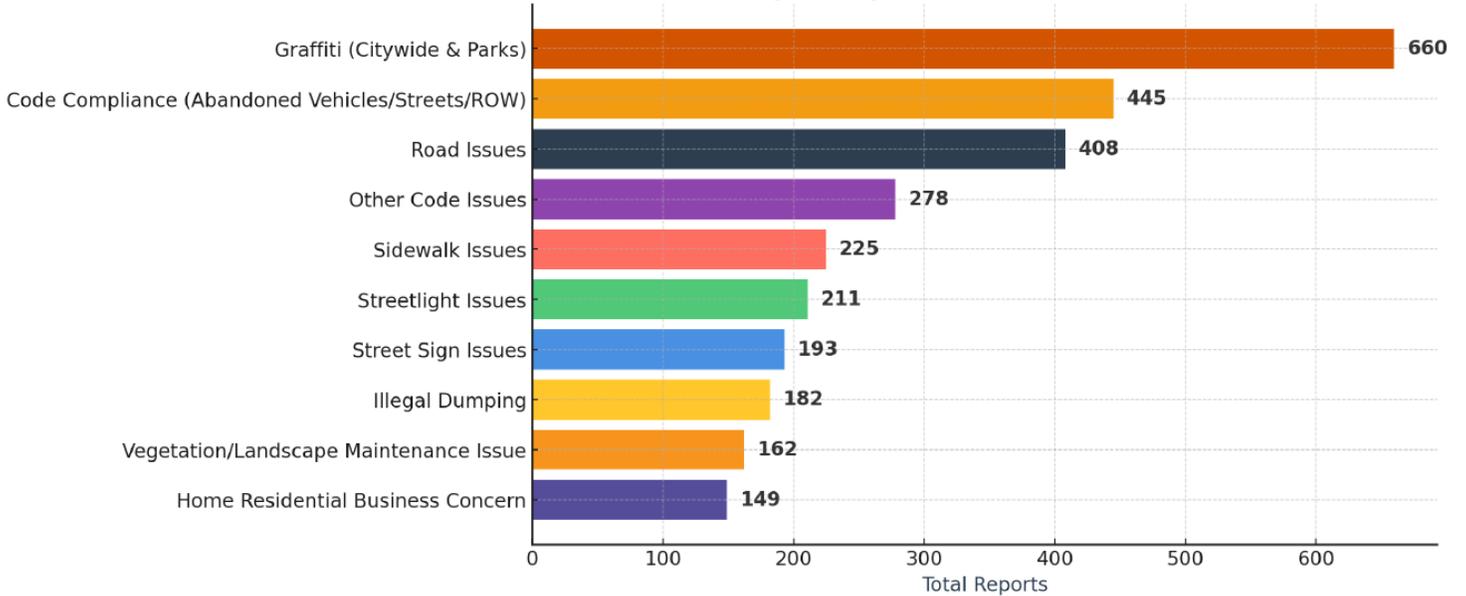
- Since 2022, 4,091 requests have been received
  - Average Requests Per Month: 110.57
  - Average Requests Per Week: 25.54
- On target to see an increase in service requests in 2025

**Annual Yuma Click & Fix Service Requests (March 2022 - March 2025)**



- Top Reported Issues
  - March 2022 – March 2025

**Top 10 Reported Issues (2022 - 2025)**



- Distribution of Requests by Department
  - March 2022 – March 2025
    - Public Works – 1,922
    - Parks & Recreation – 1,101
    - Building Safety - 677
    - Utilities - 144
    - General Government - 153
    - Engineering - 71
    - Police - 17
    - Fire - 6
- Resolution Time and Efficiency Trends
  - Acknowledgement Times
    - The average time to acknowledge a report has remained consistent, ranging from 0.8 to 1.3 days
    - Longer acknowledgement times are typically due to a request coming in on a weekend or a day that the City is otherwise closed
  - Resolution Times
    - The time taken to close reports peaked in 2023 at 7.77 days, but improved significantly in 2024 (4.8 days) and even more in 2025 (3.01 days)
    - Graffiti and minor repairs can typically be resolved quickly, but more complex issues may take longer
  - Overdue Requests
    - There was a peak in overdue requests in 2024 (420), which has significantly dropped in 2025 (90 so far)
      - Service Level Agreement (SLA) timeframes were developed in 2022
      - Most requests have a target resolution time of around five days
      - Some issues take longer to resolve than others
  - Trends suggest that while report acknowledgement remains timely, efforts to resolve issues have improved over time
  - With an average of 24 reports per week, the system is being actively used, suggesting strong community engagement
  - Resolution time is improving, with closure times dropping to 3.01 days in 2025, meaning many requests are likely being addressed faster than the SLA target
- Next Steps
  - Continue to promote the application in the community
  - News releases, social media, posters, e-billboards, articles, etc.
  - New signage in the parks
    - Signs are currently being fabricated and will be installed within the next few weeks
  - YCF calling cards for Council/Staff
    - Printed in both English and Spanish, the cards include a QR code that takes users to the YCF page on the City's website
  - Pull-Up Banner
    - Can be displayed at City booths during community events
  - Review current categories and refine/condense for better efficiency

- Review SLAs (timeline for resolution)
  - Make sure that established timeframes are reasonable and adjust as needed
- Continue training staff
  - Ensure new staff is trained and understands acknowledgement expectations

## Discussion

- Some of the language used in YCF may make sense to City staff, but may not be understood by the average person; categories will be reviewed and updated in the coming months, which will help ensure that requests are routed to the correct department (**Mayor Nicholls/Reichelt**)
- City staff could be encouraged to download and register for YCF, which will add around 1,000 more people acting as the eyes and ears of the City (**Mayor Nicholls/Reichelt**)
- The Clean and Beautiful Commission has served as ambassadors for the YCF program, providing information to the community on how to access the program and encouraging its use as a reporting tool and to give kudos to City employees (**Morales/Reichelt**)
- The anonymous reporting feature is appreciated; some people may be uncomfortable reporting an issue with a neighbor, for example, if their name is attached to it (**Smith**)
- Requests are routed to departments based on the categories selected by the requester, and can then be rerouted to a different department if needed; for some departments, such as Public Works, YCF integrates with their internal work order system (**Morris/Reichelt**)
- One additional employee was added to the graffiti crew due to the large volume of graffiti-related requests submitted through YCF (**Morris/Reichelt/Simonton**)
- The calling cards and signs with QR codes help to bring awareness to YCF and make it easy for people to submit a request (**McClendon**)
- When a request is closed out, it would be helpful if the message sent to the requester was specific as to the resolution of the request; for example, it may say that an issue has been resolved, or a part has been ordered and the repair will be completed when the part is received (**Mayor Nicholls/Reichelt**)

## II. ANNUAL STORMWATER UPDATE

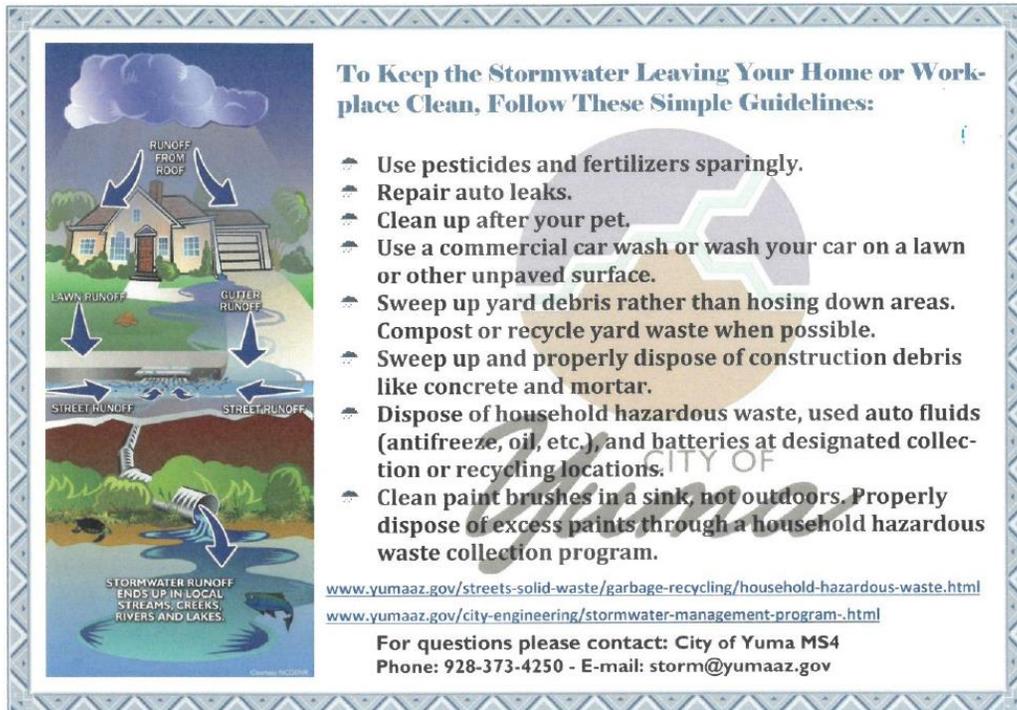
**Anaya** presented the Annual Stormwater Update as follows:

- Regulatory Overview
  - Clean Water Act of 1972, Water Quality Act of 1987, and Clean Water Rule of 2015
  - Federal - Environmental Protection Agency (EPA)
    - National Pollutant Discharge Elimination System (NPDES)
  - State - Arizona Department of Environmental Quality (ADEQ)
    - Arizona Pollutant Discharge Elimination System (AZPDES)
  - Applies to surface waters only, no groundwater
  - Yuma has been regulated as a “small municipality” since March 2003
  - Yuma operates under an AZPDES Municipal Separate Storm Sewer System (MS4) permit
    - Current five-year permit began on September 29, 2021
  - Ultimate goal of permit is protection of Waters of the U.S. from polluted stormwater runoff
  - Waters of the U.S. are any surface water – lakes, rivers, streams, canals, oceans, etc. – that has any connection to interstate or foreign commerce
- City Stormwater Regulations
  - Ordinance O2005-15

- Regulates illicit discharges and illegal dumping into drainage system
  - Ordinance O2006-38
    - Regulates stormwater runoff from construction sites of one or more acres in size
    - Regulates City water and sewer line construction projects that disturb ½ acre or more
  - Ordinance O2007-78
    - Regulates post-construction stormwater runoff for sites with connection to the Colorado River
- Compliance by the City
  - Yuma has developed and implemented a Stormwater Management Program (SWMP)
  - Minimum compliance specified by ADEQ
    - SWMP includes six Minimum Control Measures (MCMs)
      - Public education and outreach
      - Public involvement and participation
      - Illicit discharge detection and elimination
      - Construction site runoff control
      - Post-construction site runoff control
      - Good housekeeping for municipal operations/facilities
  - MS4 permit requires annual reporting to ADEQ
- Construction Runoff
  - At construction sites of one acre or more, Yuma requires the owner to implement Stormwater Pollution Prevention Plan (SWPPP):
    - Develop plans preventing stormwater pollution from leaving the site
    - File for a permit with ADEQ
    - Implement stormwater pollution prevention measures onsite
    - Perform and document inspections and enforcement
- Colorado River Impacts
  - ADEQ listed the Colorado River as impaired in 2016
    - Currently regulated for high Selenium levels
  - Impact on MS4 Permit
    - Required implementation of measures to prevent exceedance
    - One Additional Control Measure (ACM) was added to our permit and our SWMP revised accordingly
- ACM Compliance Efforts
  - Steps Yuma took to meet the ACM
    - Delineated a priority area (potential discharge to the Colorado River)
    - Incorporated plan review, site inspection and education for activities within priority area
    - Initiated visual monitoring in both wet and dry weather at stormwater outfalls to the impaired surface water segment
    - Initiated testing of stormwater from outfalls to the impaired segment
- Priority Area
  - 22<sup>nd</sup> Avenue to Gila Street, and Third Street/Giss Parkway to the Colorado River



- Additional public awareness/education efforts
  - New educational postcards
  - “Drains to the River” markers on affected inlets
- Public Awareness/Education
  - Printed and distributed approximately 1,000 postcards



- Placed Drain Markers on approximately 300 catch basins within the priority area



- Violation Reporting
  - Anyone can report a stormwater violation or concern in
    - Call (928) 373-4520
    - Email storm@yumaaz.gov
    - Yuma Click & Fix

### Discussion

- Selenium limits have not been exceeded in about four years; ADEQ requested removal of the Colorado River’s impaired listing approximately six months ago, but a decision has not yet been made by the EPA (**Mayor Nicholls/Anaya**)
- There has been talk that some Clean Water Act rules may be relaxed under the new administration; wastewater treated by the City discharges into the Colorado River downstream of the intake for the

City's water treatment plants (**Mayor Nicholls/Watts/Anaya**)

**III. REGULAR CITY COUNCIL MEETING AGENDA OF MARCH 19, 2025**

Resolution R2025-025 – Intergovernmental Agreement: Arizona SMART Funding – Yuma Multi-Modal Transportation Center (enter into an Intergovernmental Agreement with the Arizona Department of Transportation accepting \$3,537,057 for 100% of the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant match) (Eng)

Discussion

- The Engineering Department has created an itemized breakdown of the budget, which will be sent to Mayor and City Council (**Morales/Simonton**)
- It is good to finally see the \$3.5 million secured by late Councilmember Gary Knight being used for the grant match funds (**Morris**)

Motion Consent Agenda Item C.3 – Cooperative Purchase Agreement: Traffic Signal Equipment (purchase and delivery of traffic signal equipment to upgrade seven intersections through the City to communicate with the City's Intelligent Transportation System for an expenditure of \$214,758.10) (CPA-25-289) (Eng)

Discussion

- While initially the new traffic signal equipment will be installed in City's busiest intersections, eventually all City traffic signals will be upgraded so they can communicate with the Intelligent Transportation System (**Watts/Wilson**)

**IV. EXECUTIVE SESSION/ADJOURNMENT**

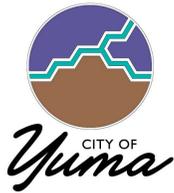
**Motion** (Morales/Morris): To adjourn the meeting to Executive Session. Voice vote: **approved** 7-0. The meeting adjourned at 6:12 p.m.

APPROVED:

\_\_\_\_\_  
Lynda L. Bushong, City Clerk

\_\_\_\_\_  
Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of: _____ City Clerk: _____
--



# City of Yuma

## City Council Report

**File #:** MC 2025-051

**Agenda Date:** 4/16/2025

**Agenda #:** 1.

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

**TITLE:**

**Bid Award: Arizona Avenue Waterline Replacement - 17th Street to 24th Street**

**SUMMARY RECOMMENDATION:**

Award a construction services contract for Arizona Avenue Waterline Replacement from 17th Street to 24th Street to the lowest responsive and responsible bidder in the amount of \$1,760,000.00 to DPE Construction, Yuma, Arizona. (Engineering-RFB-25-252) (David Wostenberg/Robin R. Wilson)

**STRATEGIC OUTCOME:**

Awarding this contract meets the desired outcome of Respected and Responsible by replacing the existing deteriorating concrete waterline on Arizona Avenue and replacing it with C900 Poly Vinyl Chloride (PVC) pipe to provide a lasting means of moving City water through the system, increased corrosion resistance, and pressure resistance.

**REPORT:**

The existing water distribution infrastructure on Arizona Avenue from 17th Street to 24th Street is in decline due to pipe corrosion and inadequate depth, which fails to provide sufficient water supply and reliability to the surrounding community. This decaying infrastructure has resulted in several water line breaks and leaks, causing inconvenience due to low water pressure and ongoing repairs while stifling future development efforts.

This project will replace the 24-inch concrete pipe with C900 PVC pipe and abandon the two undersized existing ductile pipes while installing two new appropriately sized 6-inch and 4-inch C900 PVC. The project will improve water pressure, enhance fire suppression services, and support future development efforts in the area.

Bids were received from the following two general contractors:

<b>DPE Construction, Inc.</b>	<b>\$1,760,000.00</b>
Gutierrez Canales Engineering	\$1,782,642.91

This project is anticipated to begin on June 2, 2025, and be completed in 120 days.

**FISCAL REQUIREMENTS:**

CITY FUNDS:	\$ 1,760,000.00	BUDGETED:	\$ 1,050,000.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 750,000.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$1,760,000.00			
Water Utility Fund 421			
To total; right click number & choose "Update Field"			

**FISCAL IMPACT STATEMENT:**

Though bids for this project exceed the original budget, sufficient budget authority is available within the Water Utility Fund to cover projects higher than anticipated costs without impacting water utility operations.

**ADDITIONAL INFORMATION:**

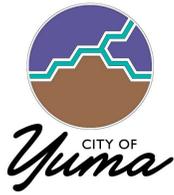
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025



# City of Yuma

## City Council Report

**File #:** MC 2025-052

**Agenda Date:** 4/16/2025

**Agenda #:** 2.

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

**TITLE:**

**Change Order: Advanced Traffic Management System Software**

**SUMMARY RECOMMENDATION:**

Authorize an increase to the contract value for Advanced Traffic Management System (ATMS) Software with Econolite, Anaheim, California, in the amount of \$49,560.00 bringing the total to \$382,808.00, and an annual expenditure of \$35,820.00 for years two through five for software licensing. (Engineering SS-25-117), (David Wostenberg/Robin R. Wilson)

**STRATEGIC OUTCOME:**

Approving this change order meets the desired outcome of Safe and Prosperous and Respected and Responsible by optimizing signal timing, lower pollution, revenue loss, and traffic accidents. It also meets the Connected and Engaged desired outcome by evaluating real-time traffic conditions and optimizing traffic based on the ever-variable roadway conditions (e.g. construction, time of year, accidents, etc.).

**REPORT:**

Recently, the City of Yuma developed an Intelligent Transportation Systems (ITS) Strategic Plan, ITS Infrastructure Plan, and Transportation Management Center (TMC) Concept of Operations. The City is expanding the integration from 35 intersections to 45 intersections further increasing the connectivity throughout the City for system service and supply communication equipment.

The additional intersections included in the integration would be continuing the 4<sup>th</sup> Avenue Corridor around the Big Curve from 32<sup>nd</sup> and Catalina to 32<sup>nd</sup> and Pacific Avenue; extending the 24<sup>th</sup> Street corridor from 24<sup>th</sup> and Arizona to 24<sup>th</sup> and Pacific Avenue; creating an Avenue C corridor from 24<sup>th</sup> to 16<sup>th</sup> Street; and various signals at Avenue 8E and 32<sup>nd</sup> Street as well as Avenue 7E and 32<sup>nd</sup> Street to assist in traffic problems at these intersections.

The ATMS software allows the Traffic Engineer and Technicians to view live traffic, ability to upload signal timings remotely, receive data analytics (road user classifications, volumes, turning movements, speeds, and signal performance metrics), and produce performance-based traffic signal timings.

The City of Yuma has the largest number of traffic signals and other traffic management equipment within the Yuma region but does not have the ability to monitor or actively operate its network remotely. There could be significant safety, efficiency, and public relations benefits when the City staff has the ability to monitor and operate traffic signals on the busiest corridors in real-time from a centralized location.

**FISCAL REQUIREMENTS:**

CITY FUNDS:	\$ 49,560.00	BUDGETED:	\$ 50,000.00
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 0.00	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$49,560.00			
102 City Road Tax			
To total; right click number & choose "Update Field"			

**FISCAL IMPACT STATEMENT:**

Sufficient budget capacity is provided in the FY 2025 City Council approved budget.

**ADDITIONAL INFORMATION:**

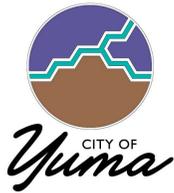
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Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025



# City of Yuma

## City Council Report

**File #:** MC 2025-053

**Agenda Date:** 4/16/2025

**Agenda #:** 3.

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

**TITLE:**

**Final Plat: La Vida Townhomes**

**SUMMARY RECOMMENDATION:**

Approve the final plat for La Vida Townhomes Subdivision. The property is located at the northwest corner of 34<sup>th</sup> Street and DeVane Drive. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

**STRATEGIC OUTCOME:**

This subdivision furthers the City Council’s strategic outcomes of Safe and Prosperous and Respected and Responsible, as the approval of the final plat will facilitate the development of new housing opportunities, a project that will be responsibly constructed, meeting all codes and requirements of the City.

**REPORT:**

The subject property of approximately 9.74 acres is situated at the northwest corner of 34th Street and DeVane Drive. Currently, the site is undeveloped. Annexed into the City of Yuma in 2009, the property has undergone a number of general plan amendments, a rezoning, and lot splits.

This development proposal aims to subdivide the property into 60 townhome residential lots, known as La Vida Townhomes, with lot sizes ranging from 3,674 square feet to 5,278 square feet, meeting the minimum lot size requirements for the Medium Density Residential/Planned Unit Development (R-2/PUD) District. The Planned Unit Development Overlay (PUD) District allows for certain deviations from typical development standards (increased densities, reduced setbacks, and increased lot coverage), provided that the development offers enhanced amenities for residents.

The proposed subdivision will need to meet the development standards required of the zoning designation, unless otherwise specified in the approved rezoning ordinance. The following development standards deviate from the typical zoning requirements as a result of the enhanced amenities identified during the PUD process:

- A decrease in the minimum lot size from 4,500 square feet to 3,674 square feet.
- A decrease in minimum lot width from 50 feet to 32 feet.
- A reduction in side yard setbacks from 5 feet on each side to zero feet.
- An increase in maximum lot coverage from 55% to 70%
- A reduction in minimum local street widths from 58 feet to 48 feet.

With this development, a Municipal Improvement District (MID) will be established for the long-term maintenance of the landscaping within the retention basin, amenity area (Tract B), midblock walking path (Tract C), and Tract D as well as for any required subdivision landscaping. The MID will need to be established prior to the issuance of any residential building permits.

The Recordation of an Avigation Easement has been satisfied with the signing of the application.

Approval of the final plat for the La Vida Townhomes Subdivision, shall be subject to the following conditions:

1. The conditions are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
3. The rights-of-way must be dedicated free and clear to the City, and all easements in the right-of-way must be vacated unless the easement is specifically presented to the City, and the City specifically approves its acceptance. Approval of the plat is not approval of an easement in the right-of-way.
4. Any easements on other property in the subdivision must be vacated to the extent that they would require a utility, licensed cable operator, or other licensed or franchised communications system (collectively, the "utilities") to:
  - a. pay to cross the easement to reach any structure on the lot;
  - b. prevent the utilities from providing service to any structure on a lot; or
  - c. effectively prevent any entity authorized to place facilities in a utility easement from using the easements or accessing potential customers crossing the easement.
5. Approval of the plat does not authorize the maintenance or installation of any facility in the rights of way, whether or not contemplated by the plat, without a license, franchise, or similar authorization issued by the City.
6. All exterior subdivision fencing shall be constructed of masonry. Access gates, whether vehicular or pedestrian, shall not be permitted along the exterior masonry fencing for the subdivision phase, including fencing along 34<sup>th</sup> Street. Such fencing can be removed during the construction of pools, in order to access utility or drainage easements, or during other residential construction; however, such masonry fencing and adjacent landscaping will need to be replaced accordingly.
7. The Owner/Developer shall be required to establish a Municipal Improvement District (MID) prior to the recording of a final plat.
8. A time frame of build-out for the subdivision shall be submitted to the Yuma School District No. 1 to enable the districts to adequately plan for future school facilities.
9. An 8 ½" X 11" paper copy of this subdivision plat, showing the location of the group mailboxes and signed as APPROVED by the local Yuma Postmaster, shall be submitted to the City within sixty (60) calendar days of the effective date of approval of the subdivision final plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.

10. After the final plat has been approved by City Council, the applicant/developer shall have two years to record the approved plat, or the final plat approval shall be null and void.

On February 24, 2025, the Planning and Zoning Commission voted to recommend APPROVAL (4-0, with two absent and one vacancy) of the request for the proposed preliminary plat for the La Vida Townhomes Subdivision, for the property located at the northwest corner of 34<sup>th</sup> Street and DeVane Drive, subject to the conditions of approval outlined in Attachment A of the attached modified condition in the Planning and Zoning Commission minutes.

**Public Comments - Excerpts from Planning and Zoning Commission Meeting Minutes:**

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANT’S REPRESENTATIVE**

None

**PUBLIC COMMENT**

None

**Motion by Lorraine Arney, Second by Malouff-Craig to APPROVE SUBD-43527-2024 as presented subject to the staff report and information provided during this hearing and the conditions in Attachment A with the removal of Condition #6 (identified in the original P&Z staff report). Motion carried unanimously, (4-0) with two absent and one vacancy.**

**Planning Commission Preliminary Plat Staff Report - Attached**

The City Council’s approval of this motion accepts the final plat of the La Vida Townhomes Subdivision as submitted, including the conditions of approval set forth.

**FISCAL REQUIREMENTS:**

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

**FISCAL IMPACT STATEMENT:**

NONE

**ADDITIONAL INFORMATION:**

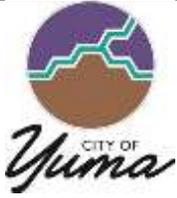
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025



**STAFF REPORT TO THE PLANNING AND ZONING COMMISSION**  
**DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES**  
**COMMUNITY PLANNING DIVISION**  
**CASE TYPE – PRELIMINARY SUBDIVISION**  
**CASE PLANNER: ERIKA PETERSON**

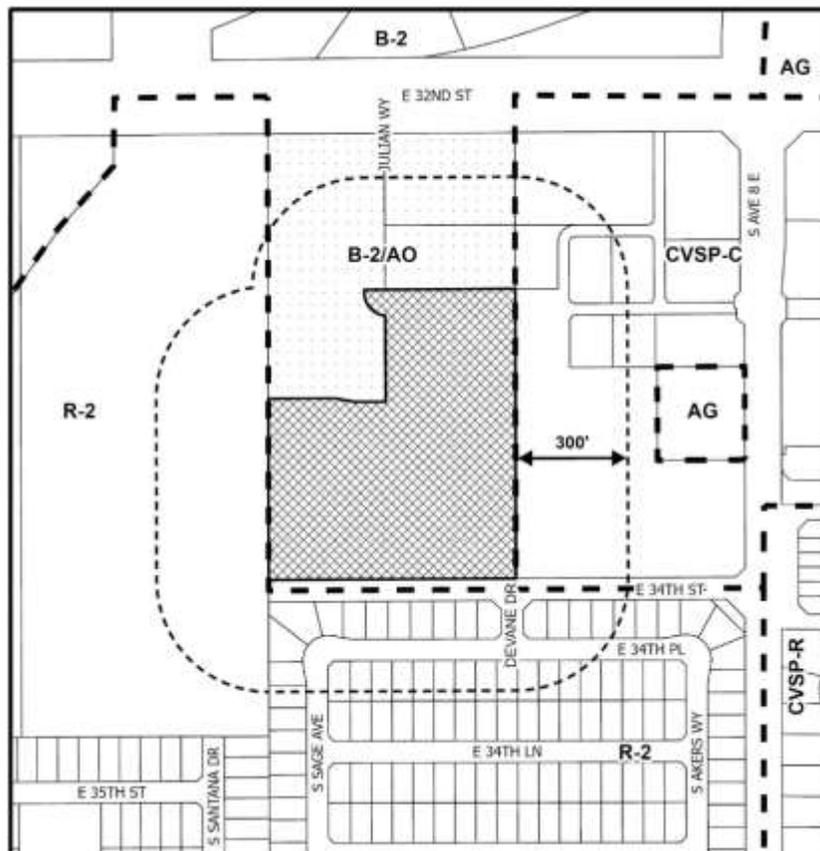
**Hearing Date:** February 24, 2025

**Case Number:** SUBD-43527-2024

**Project Description/Location:** This is a request by Dahl, Robins & Associates, Inc., on behalf of Yuma Development One, LLC, for approval of the preliminary plat for La Vida Townhomes. This subdivision will contain approximately 9.74 acres and is proposed to be divided into 60 townhome lots, ranging in size from approximately 3,674 square feet to 5,278 square feet for the property located at the northwest corner of 34<sup>th</sup> Street and DeVane Drive, Yuma, AZ.

	<b>Existing Zoning</b>	<b>Existing Land Use</b>	<b>Designated Land Use</b>
<b>Site</b>	General Commercial/ Aesthetic Overlay (B-2/AO)	Undeveloped	Medium Density Residential
<b>North</b>	General Commercial/ Aesthetic Overlay (B-2/AO)	Undeveloped	Commercial
<b>South</b>	Medium Density Residential (R-2)	Single-family homes	Medium Density Residential
<b>East</b>	Cielo Verde Specific Plan Commercial (CVSP-C)	Apartments	Commercial
<b>West</b>	Medium Density Residential (R-2)	Undeveloped	Medium Density Residential

**Location Map**



**Prior site actions:** Annexation: Ord. O99-29 (July 3, 1999); General Plan Amendment: GP-2005-014 Resolution R2005-125 (November 16, 2005) Minor Amendment to change land use designation from Medium Density Residential to Commercial; Rezone Z2006-12: Ord. O2006-59 (AG to B-2/AO) (February 27, 2008); Lot Split: LS2005-042 Yuma Development One Lot Split; Subdivision: YDO Parcel C Subdivision; Lot Split: LOTS-43285-2024 24/7 Get Fit Lot Tie/Lot Split No. 3 (in process); Rezone ZONE-43328-2024: Ord O2025-002 (B-2 to R-2/PUD) January 15, 2025.

**Staff Recommendation:** Staff recommends **APPROVAL** of the preliminary plat for the La Vida Townhomes, subject to the conditions outlined in Attachment A.

**Suggested Motion:** Move to **APPROVE** Preliminary Plat SUBD-43527-2024 as presented, subject to the staff report, information provided during this hearing, and the conditions in Attachment A.

**Effect of the Approval:** By approving the preliminary plat, the Planning and Zoning Commission is acknowledging the street and lot layout of La Vida Townhomes which includes 60 lots ranging in size from 3,674 square feet to 5,278 square feet for the property located at the northwest corner of 34<sup>th</sup> Street and DeVane Drive, subject to the conditions of the rezoning and the conditions outlined in Attachment A, and affirmatively finds that the request is in conformance with the City of Yuma Subdivision Code and General Plan and is compatible with surrounding land uses.

**Staff Analysis:** The subject property covers approximately 9.74 acres and is situated at the northwest corner of 34th Street and DeVane Drive. Currently, the site is undeveloped. Annexed into the City of Yuma in 2009, the property has undergone a number of general plan amendments, a rezoning, and lot splits.

This development proposal aims to subdivide the property into 60 townhome residential lots, known as La Vida Townhomes, with lot sizes ranging from 3,674 square feet to 5,278 square feet, meeting the minimum lot size requirements for the Medium Density Residential/Planned Unit Development (R-2/PUD) District. The Planned Unit Development Overlay (PUD) District allows for certain deviations from typical development standards (increased densities, reduced setbacks, and increased lot coverage), provided that the development offers enhanced amenities for residents.

The proposed subdivision will need to meet the development standards required of the zoning designation, unless otherwise specified in the approved rezoning application. The following development standards deviate from the typical zoning requirements as a result of the enhanced amenities identified during the PUD process:

- A decrease in the minimum lot size from 4,500 square feet to 3,674 square feet.
- A decrease in minimum lot width from 50 feet to 32 feet.
- A reduction in side yard setbacks from 5 feet on each side to zero feet.
- An increase in maximum lot coverage from 55% to 70%
- A reduction in minimum local street widths from 58 feet to 48 feet.

With this development, a Municipal Improvement District (MID) will be established for the long-term maintenance of the landscaping within the retention basin, amenity area (Tract B), midblock walking path (Tract C), and Tract D as well as for any required subdivision landscaping. The MID will need to be established prior to the issuance of any residential building permits.

The Recordation of an Avigation Easement has been satisfied with the signing of the application.

**1. Does the subdivision comply with the zoning code and the zoning district development standards?**

Yes. The preliminary plat meets dimensional standards and development standards for the Medium Density Residential/Planned Unit Development (R-2/PUD) District.

**2. Does the subdivision comply with the subdivision code requirements?**

Yes.

Standard	Subdivision				Conforms				
	Lot Size	Minimum:	3,674 SF	Maximum:	5,278 SF	Yes	X	No	
Lot Depth	Minimum:	113.54 FT	Maximum:	131.15 FT	Yes	X	No		
Lot Width/Frontage	Minimum:	32 FT	Maximum:	32.5 FT	Yes	X	No		
Setbacks	Front:	20 FT	Rear:	10 FT	Side:	0 FT	Yes	X	No
District Size	9.74	Acres				Yes	X	No	
Density	12.9	Dwelling units per acre				Yes	X	No	
Issues: The minimum lot size, minimum lot width and reduced side yard setbacks were approved during the rezoning process.									

Requirements	Conforms					
General Principles	Yes	X	No		N/A	
Streets	Conforms					
Circulation	Yes	X	No		N/A	
Arterial Streets	Yes	X	No		N/A	
Existing Streets	Yes		No		N/A	X
Cul-de-sacs	Yes		No		N/A	X
Half Streets	Yes		No		N/A	X
Stub Streets	Yes		No		N/A	X
Intersections	Yes	X	No		N/A	
Easements	Yes	X	No		N/A	
Dimensional Standards	Yes	X	No		N/A	

Issues: The reduced roadway widths were approved during the rezoning process.

Blocks	Conforms					
Length	Yes	X	No		N/A	
Irregular Shape	Yes		No		N/A	X
Orientation to Arterials	Yes		No		N/A	X
Business or Industrial	Yes		No		N/A	X

Issues:

Lots	Conforms					
Minimum Width	Yes	X	No		N/A	
Length and Width Ratio	Yes	X	No		N/A	
Fronting on Arterials	Yes		No		N/A	X
Double Frontage	Yes		No		N/A	X
Side Lot Lines	Yes	X	No		N/A	
Corner Lots	Yes	X	No		N/A	
Building Sites	Yes	X	No		N/A	
Street Frontage	Yes	X	No		N/A	

Issues: Lot dimensions approved during rezoning process.

**3. Does the subdivision comply with the elements, plans and policies of the General Plan?**

Yes.

<b>Land Use Element:</b>											
Land Use Designation:				Medium Density Residential							
Issues:				None							
Historic District:		Brinley Avenue		Century Heights			Main Street		None X		
Historic Buildings on Site:				Yes	No	X					
<b>Transportation Element:</b>											
<b>FACILITY PLANS</b>											
TRANSPORTATION MASTER PLAN		<b>Planned</b>		<b>Existing</b>		<b>Gateway</b>		<b>Scenic</b>		<b>Hazard</b>	<b>Truck</b>
32 <sup>nd</sup> Street- Principal Arterial- 4 Lanes		50 FT HW		100 FT HW							X
Avenue 8E- Collector 2 Lanes		40 FT HW		49 FT HW							
34 <sup>th</sup> Street- Local		29 FT HW		29 FT HW							
Bicycle Facilities Master Plan		32 <sup>nd</sup> Street- Bike path and Avenue 8E- Proposed bike lane									
YCAT Transit System		32 <sup>nd</sup> Street at Avenue 8E- Gold Route 8									
Issues:		None									
<b>Parks, Recreation and Open Space Element:</b>											
Parks and Recreation Facility Plan											
Neighborhood Park:		Existing: Saguaro Park				Future: Saguaro Park					
Community Park:		Existing: Kennedy Park				Future: East Mesa Park					
Linear Park:		Existing: E. Main Canal Linear Park				Future: "A" Canal Linear Park					
Issues:		None									
<b>Housing Element:</b>											
Special Need Household:		N/A									
Issues:		None									
<b>Redevelopment Element:</b>											
Planned Redevelopment Area:		None									
Adopted Redevelopment Plan:		North End:			Carver Park:		None:		X		
Conforms:		Yes	No								
<b>Conservation, Energy &amp; Environmental Element:</b>											
Impact on Air or Water Resources		Yes	No	X							
Renewable Energy Source		Yes	No	X							
Issues:											
Population Impacts Population projection per 2018-2022 American Community Survey Police Impact Standard: 1 officer for every 530 citizens; 2020 Conservation Plan Water demand: 207 gallons/day/person; Wastewater generation: 70 gallons per day per person		<b>2-4 Units</b>		<b>Population</b>		<b>Impact</b>	<b>Consumption</b>		<b>Generation</b>		
		Proposed	Per Unit		Officers	GPD	AF	GPD			
		60	2.71	163	0.31	33,658	37.7	11,382			
Fire Facilities Plan:		Existing: Fire Station No. 7				Future: Fire Station No. 7					
Water Facility Plan:		Source:	City	X	Private	Connection		10" PVC on east side of parcel			
Sewer Facility Plan:		Treatment:	City	X	Septic	Private		Connection: 8" PVC east side of parcel			
Issues:		None									
<b>Safety Element:</b>											
Flood Plain Designation:		500 Year Flood			Liquefaction Hazard Area:			Yes	No	X	

Issues:	None						
<b>Growth Area Element:</b>							
Growth Area:	Araby Rd & Interstate 8	X	Arizona Ave & 16 <sup>th</sup> St		Avenue B & 32 <sup>nd</sup> St.		
	North End		Pacific Ave & 8 <sup>th</sup> St		Estancia		None
Issues:	None						

**Public Comments Received:** None received.

**External Agency Comments:** See Attachment E.

**Neighborhood Meeting Comments:** No meeting required.

**Proposed conditions delivered to applicant on:** 2/3/2025

**Final staff report delivered to applicant on:** 2/10/2025

- Applicant agreed with all of the conditions of approval on:
- Applicant did not agree with the following conditions of approval: #6
- Conditions of Approval were emailed to applicant on 2/3/2025.

**Attachments**

A	B	C	D	E	F	G	H
Preliminary Plat Conditions of Approval	Preliminary Plat Map	Rezone Conditions	Agency Notifications	Agency Comments	Neighbor Notification List	Neighbor Postcard	Aerial Photo

**Prepared By:** *Erika Peterson* **Date:** 1/24/2025

Erika Peterson,  
Associate Planner [Erika.Peterson@YumaAZ.Gov](mailto:Erika.Peterson@YumaAZ.Gov) (928)373-5000, x3071

**Approved By:** *Jennifer L. Albers* **Date:** 2/3/25

Jennifer L. Albers,  
Assistant Director of Planning

**ATTACHMENT A  
PRELIMINARY PLAT  
CONDITIONS OF APPROVAL**

The following conditions of approval have been determined to have a reasonable nexus to the requested subdivision application and are roughly proportionate to the impacts associated with the subdivision and expected development on the property.

**Department of Planning and Neighborhood Services Comments: Alyssa Linville, Director (928) 373-5000, x 3037:**

1. The conditions are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

**City Attorney Comments: (928) 373-5058:**

3. The rights-of-way must be dedicated free and clear to the City, and all easements in the right-of-way must be vacated unless the easement is specifically presented to the City, and the City specifically approves its acceptance. Approval of the plat is not approval of an easement in the right-of-way.
4. Any easements on other property in the subdivision must be vacated to the extent that they would require a utility, licensed cable operator, or other licensed or franchised communications system (collectively, the "utilities") to:
  - a. pay to cross the easement to reach any structure on the lot;
  - b. prevent the utilities from providing service to any structure on a lot; or
  - c. effectively prevent any entity authorized to place facilities in a utility easement from using the easements or accessing potential customers passed by the easement.
5. Approval of the plat does not authorize the maintenance or installation of any facility in the rights of way, whether or not contemplated by the plat, without a license, franchise, or similar authorization issued by the City.

**Engineering Comments: Jerry Anaya, Engineering Manager (928)373-5000, x 5182:**

6. If the streets within the subdivision become public, the developer shall install streetlights in accordance with City of Yuma standards.
7. All exterior subdivision fencing shall be constructed of masonry. Access gates, whether vehicular or pedestrian, shall not be permitted along the exterior masonry fencing for the subdivision phase, including fencing along 34<sup>th</sup> Street. Such fencing can be removed during the construction of pools, in order to access utility or drainage easements, or during other residential construction; however, such masonry fencing and adjacent landscaping will need to be replaced accordingly.

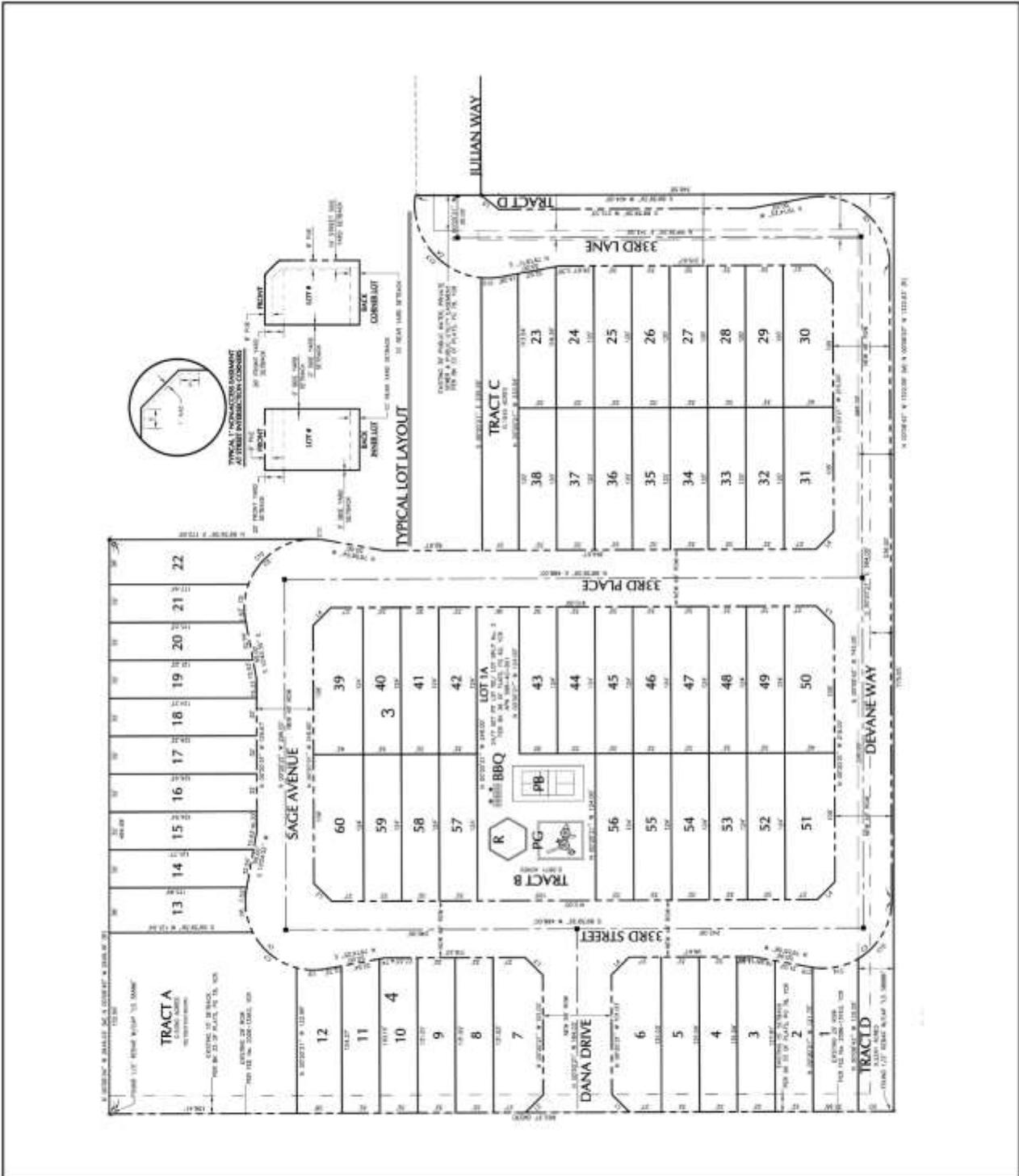
**Community Planning Conditions: Erika Peterson, Senior Planner, (928) 373-5000, x 3071**

8. The Owner/Developer shall be required to establish a Municipal Improvement District (MID) prior to the recording of a final plat.

9. The Owner shall submit a final plat within three (3) years of Preliminary Plat approval. Should a Final Plat not be submitted within three (3) years of the effective date of approval of the Preliminary Plat, the approval of this Preliminary Plat shall be null and void, unless the conditions are contained in an executed Pre-development Agreement.

**Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.**

**ATTACHMENT B  
PRELIMINARY PLAT MAP**



Prepared by:  
DG  
Date:  
12/24/2024

SUBD-43527-2024  
Preliminary Plat  
La Vida Townhomes  
Site Plan

Plan/Case:  
**43527**



**ATTACHMENT C  
REZONE CONDITIONS**

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
3. If rolled curb is used within the development, Owner/Developer shall put together an entity to maintain the private streets, as the local streets within the development does not meet current City standards. This condition will be considered null and void if the City adopts a new local street standard with rolled curbs, and that the subdivision has the same matching street construction standard and right-of-way width prior to the plat recordation.
4. Owner/Developer shall grant a full street width utility easement to the City of Yuma on the final plat if the streets remain private as noted above.
5. Owner/Developer shall provide a 6-foot-tall solid subdivision wall around the perimeter of the development per City of Yuma construction standard 1-010, or similar design as sealed by a registered civil or structural engineer certifying that it will stand up to current code wind and seismic loads.
6. At the time the preliminary subdivision plat is submitted, the Owner/developer shall submit a Traffic Impact Statement providing the peak hour traffic count based on the Trip Generation Manual from the Institute of Transportation Engineers, sealed by an Arizona Engineer with traffic experience. Development conditions per ARS 9-462.01.
7. The common area/retention basin shall be designed to include the following amenities:
  - a. Landscaping in a cohesive manner throughout retention basin (Tract A), amenity area (Tract B), midblock walking path (Tract C), and Tract D.
  - b. Landscaping in retention basin, amenity area (Tract B), midblock walking path (Tract C), and Tract D to be installed prior to the closing of the first residence.
  - c. 5-foot walking path in Tract C connecting to amenity area (Tract B).
8. Front yard irrigation, artificial grass, a 15-gallon tree, and 4 shrubs for each unit shall be installed as a phased installation project, not to exceed 10 completed units.
9. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS § 9-462.

**ATTACHMENT D  
AGENCY NOTIFICATIONS**

- **Legal Ad Published: The Sun** 1/31/2025
- **300' Vicinity Mailing:** 1/6/2025
- **34 Commenting/Reviewing Agencies noticed:** 1/9/2025
- **Site Posted on:** 1/18/2025
- **Neighborhood Meeting:** N/A
- **Hearing Date:** 2/24/2025
- **Comments due:** 1/20/2025

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>“No Comment”</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	YES	1/9/2025	X		
Yuma County Engineering	NR				
Yuma County Public Works	YES	1/10/2025	X		
Yuma County Water Users’ Assoc.	YES	1/10/2025	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Game and Fish	NR				
USDA – NRCS	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	1/13/2025			X
Ft. Yuma Quechan Indian Tribe	YES	1/13/2025	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>“No Conditions”</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineer	NR				
Fire	NR				
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	1/22/2025			X
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT E  
AGENCY COMMENTS**

COMMENT       NO COMMENT

*Enter comments below:*

There is a potential conflict with our GLA - SON 69kV line, please have the developer reach out to WAPA prior to proceeding.

DATE:            1/13/25      NAME: Leslee Beckett      TITLE: Realty Specialist  
 AGENCY:        Western Area Power Administration  
 PHONE:         6026052846  
 RETURN TO:    Erika Peterson  
                     Erika.Peterson@YumaAZ.gov

Follow-up email from Leslee Beckett dated 1/23/2025:

Erika

I spoke with Christopher yesterday. If there project is at least 400 ft from WAPA right of way, there would not be a problem.

Sincerely,

**Leslee Beckett | Realty Specialist**  
 Western Area Power Administration | Desert Southwest Region  
 ☎(O) 602.726.5270 (C) 602.762.6250 [Beckett@wapa.gov](mailto:Beckett@wapa.gov)



Condition(s)                       No Condition(s)                       Comment

*Enter conditions here:*

The subject parcel is located approximately 2.5 miles from the Barry M. Goldwater Range West (BMGRW) northern boundary. It is requested that Avigation and Range Disclosure Statements be recorded to recognize the noise, interference, or vibrations due to aviation operations that may occur at the nearby Marine Corps Air Station Yuma, Yuma International Airport Aviation Complex, BMGR-W and its associated flight paths. Please send a copy of the recorded statements to MCASYUMA\_CPLO@usmc.mil. Thank you for the opportunity to review and comm

DATE:            20 Jan 2025      NAME:        Mary Ellen Finch      TITLE: Community Liaison Officer  
 CITY DEPT:      MCAS Yuma  
 PHONE:         928-269-2047  
 RETURN TO:    Erika Peterson  
                     Erika.Peterson@YumaAZ.gov

**ATTACHMENT F  
NEIGHBORHOOD NOTIFICATION LIST**

<b>Property Owner</b>	<b>Mailing Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
#1 GYM LLC	1401 W PARKWAY DR	YUMA	AZ	85364
ALON 2017 FAMILY TRUST 2-3-2017	10023 REOLA DR	LAKESIDE	CA	92040
BARRAZA SANTOS	516 S ASHFORD AVE	BLOOMINGTON	CA	92316
CASAREZ ARTURO DE JESUS & ROSA	7962 E 34TH PL	YUMA	AZ	85365
CHACON HECTOR JR	7828 E 34TH PL	YUMA	AZ	85365
CIELO VERDE APARTMENTS LLC	1334 S 5TH AVE	YUMA	AZ	85364
CORONADO ALDO	7815 E 34TH PL	YUMA	AZ	85365
DHG LLC	1670 W MAIN ST	SOMERTON	AZ	85350
DHG LLC	1670 W MAIN ST	SOMERTON	AZ	85350
DHG LLC	1670 W MAIN ST	SOMERTON	AZ	85350
DHG LLC	PO BOX 2986	SOMERTON	AZ	85350
DHG LLC	1670 W MAIN ST	SOMERTON	AZ	85350
DHG LLC	1670 W MAIN ST	SOMERTON	AZ	85350
DHG LLC	1670 W MAIN ST	SOMERTON	AZ	85350
DPL LLC	300 W 22ND PL	YUMA	AZ	85364
DPL LLC	300 W 22ND ST	YUMA	AZ	85364
FLECK KELLY LYNN	7827 E 34TH PL	YUMA	AZ	85365
GONZALEZ PEDRO & KARINA	7804 E 34TH PL	YUMA	AZ	85365
GUTIERREZ PAUL & ITZEL	3418 S SAGE AVE	YUMA	AZ	85365
HERNANDEZ YUNKIN YUMIKO	7899 E 34TH PL	YUMA	AZ	85365
HEWITT RICHARD SCOTT & WILLIAM FRANCIS II	2569 E COUNTY 15TH ST	YUMA	AZ	85365
JACOBSON COMPANIES INC AZ CORP	1334 S 5TH AVE	YUMA	AZ	85364
JACOBSON COMPANIES INC AZ CORP	1334 S 5TH AVE	YUMA	AZ	85364
JACOBSON COMPANIES INC AZ CORP	1334 S 5TH AVE	YUMA	AZ	85364
JACOBSON COMPANIES INC AZ CORP	1334 S 5TH AVE	YUMA	AZ	85364
KNAM & D CONSTRUCTION LLC	PO BOX 2865	SAN LUIS	AZ	85349
KNAM & D CONSTRUCTION LLC	PO BOX 2865	SAN LUIS	AZ	85349
LA VIDA SECA LLC	4575 W COVERED WAGON WAY	YUMA	AZ	85364
MARICHI MARIA ANTONIETA	7887 E 34TH PL	YUMA	AZ	85365
RAMOS CESAR A	7864 E 34TH PL	YUMA	AZ	85365
RIOS OMAR JOEL & NANCY A	7913 E 34TH PL	YUMA	AZ	85365
ROBLES ELLIOT IVAN	3426 S SAGE AVE	YUMA	AZ	85365
RODRIGUEZ ANTONIO	7863 E 34TH PL	YUMA	AZ	85365
SANTANA 142 RE HOLDINGS AZ LLC	340 PALLADIO PKWY STE 521	FOLSOM	CA	95630
TATE STEPHANIE	7926 E 34TH PL	YUMA	AZ	85365
TROPIC ENTERPRISES LLC	3208 S AVE 8E	YUMA	AZ	85365

TROPIC ENTERPRISES LLC	3208 S AVE 8E	YUMA	AZ	85365
TUMBAGA SABRINA	1670 W MAIN ST	SOMERTON	AZ	85350
UGARTE ONELIA AVILA	7893 E 34TH PL	YUMA	AZ	85365
VALENCIA MARTIN & SYLVIA	7907 E 34TH PL	YUMA	AZ	85365
VALENZUELA NANCY V	7852 E 34TH PL	YUMA	AZ	85365
YUMA DEVELOPMENT ONE AZ LLC	PO BOX 1417	FORT GIBSON	OK	74434



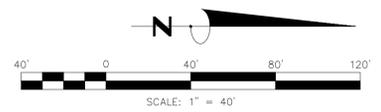
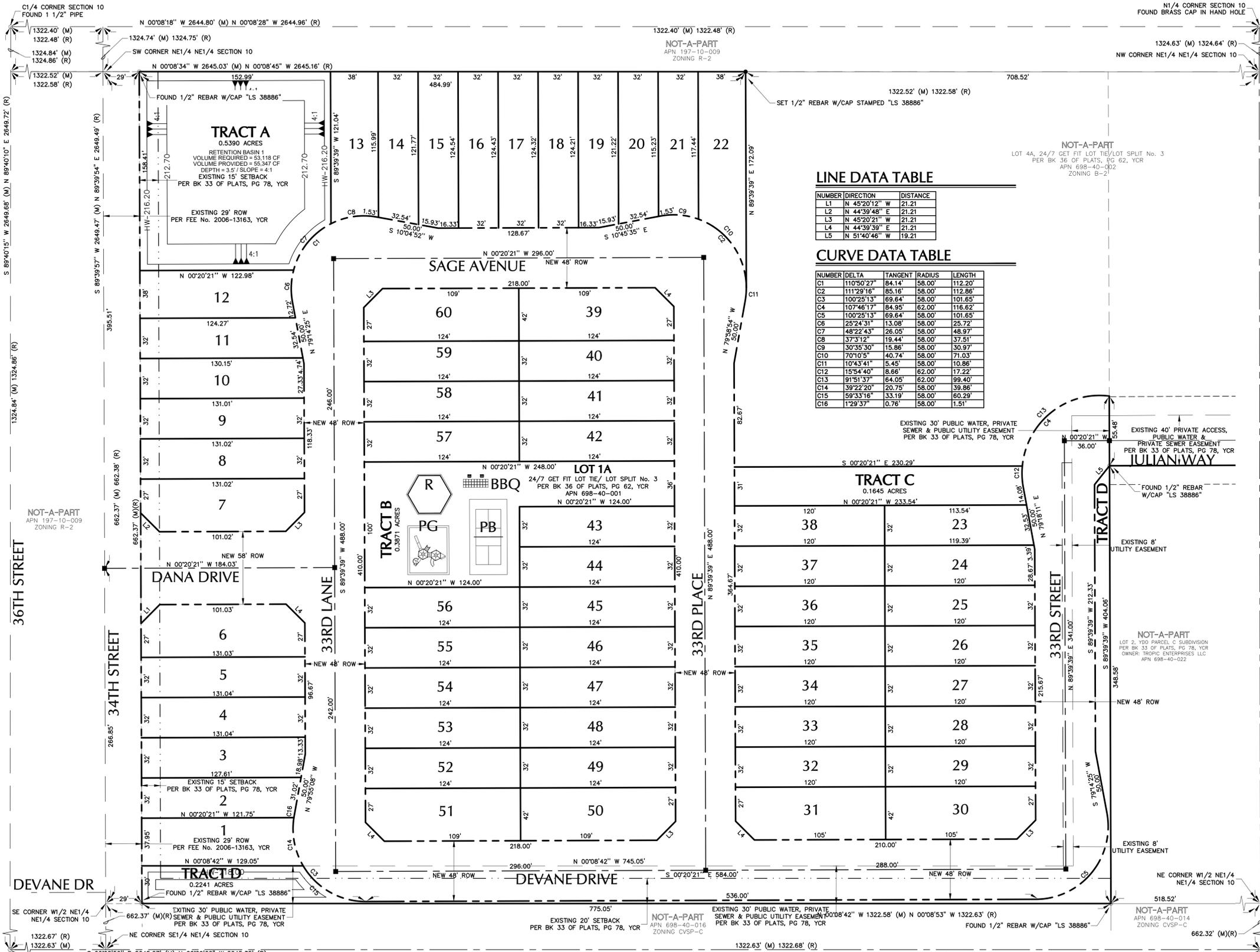
ATTACHMENT H  
AERIAL PHOTO



Subject Property

# LA VIDA TOWNHOMES

A SUBDIVISION OF LOT 1A 24/7 GET FIT LOT TIE / LOT SPLIT No. 3, AS RECORDED IN BK 36 OF PLATS, PG 62, YUMA COUNTY RECORDS,  
 LOCATED IN THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 9 SOUTH, RANGE 22 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YUMA COUNTY, ARIZONA  
 DATE OF PREPARATION: NOVEMBER 2024 NUMBER OF LOTS: 60 ACREAGE: 9.7382 ACRES



**LEGEND**

- CENTERLINE
- - - RIGHT-OF-WAY LINE
- SUBDIVISION BOUNDARY
- LOT LINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- EXISTING MONUMENT (TYPE AS NOTED)
- SET 1/2" REBAR WITH CAP "LS 38886"
- NEW CITY OF YUMA STANDARD STREET MONUMENT NO. 4-080
- RIGHT-OF-WAY
- Y.C.R. YUMA COUNTY RECORDS
- C.O.Y. CITY OF YUMA
- 26 SUBDIVISION LOT NUMBER
- 000-00-000 ASSESSOR'S PARCEL NUMBER

**LINE DATA TABLE**

NUMBER	DIRECTION	DISTANCE
L1	N 45°20'12" W	21.21
L2	N 44°39'48" E	21.21
L3	N 45°20'21" W	21.21
L4	N 44°39'39" E	21.21
L5	N 51°40'48" W	19.21

**CURVE DATA TABLE**

NUMBER	DELTA	TANGENT	RADIUS	LENGTH
C1	110°50'27"	84.14'	58.00'	112.20'
C2	111°29'18"	85.16'	58.00'	112.88'
C3	100°25'13"	69.64'	58.00'	101.65'
C4	107°46'17"	84.95'	62.00'	116.62'
C5	100°25'13"	69.64'	58.00'	101.65'
C6	25°24'31"	13.08'	58.00'	25.72'
C7	48°22'43"	26.05'	58.00'	48.97'
C8	37°31'12"	19.44'	58.00'	37.51'
C9	30°35'30"	15.86'	58.00'	30.97'
C10	70°10'5"	40.74'	58.00'	71.03'
C11	10°43'41"	5.45'	58.00'	10.86'
C12	15°54'40"	8.66'	62.00'	17.22'
C13	91°51'37"	64.05'	62.00'	99.40'
C14	39°22'20"	20.75'	58.00'	39.86'
C15	59°33'16"	33.19'	58.00'	60.29'
C16	1°29'37"	0.78'	58.00'	1.51'

**DEDICATION**

STATE OF ARIZONA }  
 COUNTY OF YUMA }  
 KNOW ALL MEN BY THESE PRESENTS: THAT YUMA DEVELOPMENT ONE, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, HAS CAUSED THE FOLLOWING DESCRIBED PROPERTY: THE WEST HALF OF SECTION 10, TOWNSHIP 9 SOUTH, RANGE 22 WEST, GILA & SALT RIVER BASE & MERIDIAN, YUMA COUNTY, ARIZONA AS PLATTED HEREON TO BE SUBDIVIDED INTO LOTS UNDER THE NAME OF "LA VIDA TOWNHOMES" AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE LOTS CONSTITUTING SAID "YUMA PARCEL C SUBDIVISION" AND THAT THE LOTS SHALL BE KNOWN BY THE NUMBER GIVEN EACH RESPECTIVELY ON SAID PLAT. THE EASEMENTS ARE DEDICATED TO THE CITY OF YUMA, A MUNICIPAL CORPORATION, FOR THE PURPOSES SHOWN HEREON. A THREE FOOT NON-CONSTRUCTION AND NO OBSTRUCTION EASEMENT FROM THE FURTHEST PROJECTION ON ANY SIDE OF ALL FIRE HYDRANTS IS HEREBY GRANTED.

IN WITNESS WHEREOF YUMA DEVELOPMENT ONE, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, HAS CAUSED ITS COMPANY NAME TO BE SIGNED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024

R. RYKER YOUNG, MANAGER

**ACKNOWLEDGMENT**

STATE OF ARIZONA }  
 COUNTY OF YUMA }  
 ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024 BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED RYKER YOUNG, WHO ACKNOWLEDGED HIMSELF TO BE THE MANAGER OF YUMA DEVELOPMENT ONE, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, LLC, AN ARIZONA LIMITED LIABILITY COMPANY AND THAT HE, AS SUCH OFFICER BEING DULY AUTHORIZED TO DO SO, EXECUTED THE DEDICATION INSTRUMENT FOR THE PURPOSE THEREIN CONTAINED BY SIGNING THE NAME OF SAID COMPANY BY HIMSELF AS SUCH OFFICER

IN WITNESS WHEREOF  
 I HERETO SET MY HAND AND OFFICIAL SEAL

**APPROVED**

DEPARTMENT OF COMMUNITY DEVELOPMENT

CITY OF YUMA ENGINEER

STATE OF ARIZONA }  
 COUNTY OF YUMA }  
 THIS SUBDIVISION, AS SHOWN HEREON, HAS BEEN APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF YUMA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024

MAYOR ATTEST:

CITY CLERK

**LAND SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT THE SUBDIVISION SHOWN HEREON WAS MADE UNDER MY DIRECTION DURING FEBRUARY 2025 AND THAT THIS SUBDIVISION CONFORMS TO ALL REGULATIONS AND REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY OF YUMA, ARIZONA.



CHRISTOPHER D. ROBINS RLS No. 38886

**LAND SURVEYOR**

1560 S. 5th Avenue  
 Yuma, AZ 85364  
 Phone: (928) 819-0825  
 Fax: (928) 819-0826  
 www.dahlrobins.com  
 DRA Job: 24035

**DAHL, ROBINS & ASSOCIATES, INC.**

**OWNER**  
 YUMA DEVELOPMENT ONE, LLC  
 P.O. BOX 1417  
 FORT GIBSON, OK 74434

**CURRENT ZONING**  
 CURRENT ZONING - R-2/PUD

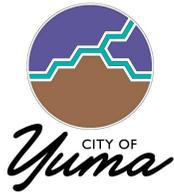
**BASIS OF BEARINGS**  
 BEARINGS ARE RELATIVE TO NAD 83 ARIZONA WEST STATE PLANE COORDINATE SYSTEM AS MEASURED BY GPS KINEMATIC SURVEY AS OBSERVED CONTROL POINTS.

**FLOOD ZONE DESIGNATION**  
 THE SUBJECT PROPERTY IS LOCATED WITHIN AN AREA HAVING A FLOOD ZONE X DESIGNATION. ZONE X - AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.  
 REFERENCE - FLOOD INSURANCE RATE MAP (FIRM), MAP NUMBER 04027C1565E, EFFECTIVE DATE AUGUST 28, 2008

**DRAINAGE NOTE**  
 THE HYDROLOGIC DESIGN OF SUBDIVISION REQUIRES THAT EACH INDIVIDUAL LOT MAKE PROVISIONS TO RETAIN THE STORM WATER FALLING ON THAT LOT AND THE RUNOFF GENERATED FROM 1/2 OF THE ADJACENT STREET RIGHT-OF-WAY.

**RESTRICTIVE COVENANTS**  
 HAVE BEEN RECORDED CONCURRENTLY AND ARE A PART OF THIS PLAT

**SURVEYOR'S NOTE**  
 1. ALL NEW PROPERTY CORNERS TO BE SET 1/2" REBAR WITH CAP STAMPED "LS 38886"



# City of Yuma

## City Council Report

**File #:** MC 2025-056

**Agenda Date:** 4/16/2025

**Agenda #:** 4.

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

**TITLE:**

**Development Loan Agreement: Arizona Housing Development Corporation**

**SUMMARY RECOMMENDATION:**

Approve a Development Loan Agreement with Arizona Housing Development Corporation for the Magnolia Gardens Project funded by the U.S. Department of Housing and Urban Development's HOME Investment Partnership and HOME-ARP Programs. (Planning and Neighborhood Services/Neighborhood Services) (Cynthia Blot)

**STRATEGIC OUTCOME:**

The use of funds provided in this agreement furthers the City Council's strategic outcome of Safe and Prosperous by providing resources to meet the housing needs of the community.

**REPORT:**

**HOME-ARP**

The American Rescue Plan (ARP) was signed into law on March 11, 2021, providing federal funding to address the ongoing impact of the Coronavirus Pandemic on the national economy, public health, state and local governments, businesses, and citizens. To address these needs, Congress allocated ARP funding to be administered by the U.S. Department of Housing and Urban Development (HUD) as part of the department's HOME Investment Partnerships Program (HOME-ARP). HUD provided these funds to the Yuma County HOME Consortium (YCHC). The members of the YCHC are Yuma County, the Cities of Somerton, San Luis, and Yuma, and the Town of Wellton. The City of Yuma serves as the lead entity for the consortium.

In 2022, staff engaged in an extensive consultation process to develop the HOME-ARP Allocation Plan. This consultation resoundingly instructed that the funds to be used to develop affordable rental housing. City Council approved the Plan on July 11, 2022 before it was submitted to and approved by HUD. The Plan allocated funds for the development of affordable rental housing for certain qualifying populations and HOME-ARP Planning and Administration.

In 2022, the City issued a Notice of Funds Availability (NOFA) to accept proposals from developers interested in developing affordable rental housing. Three proposals were submitted:

- DANCO Communities to develop a 60-unit (10 HOME-ARP units) Fortuna Palms Project at the NWC E. 35<sup>th</sup> Place & South Prescott Avenue in the Foothills. The project was not approved for Low Income Housing Tax Credits by the Arizona Department of Housing and did not move forward.
- Bethel Development to assist with the Vistara Phase I project in the Mesa Heights Neighborhood to develop an 80 unit (1 HOME-ARP unit).
- Arizona Housing Development Corporation (AHDC) to assist with the Magnolia Gardens project at 430 S. Magnolia Avenue to develop 16 units. The project includes 8 HOME-ARP units, 2 HOME units and 6 market rate units.

In 2023, the YCHC approved \$2,321,108.60 in HOME-ARP funding for the Magnolia Gardens project.

**HOME**

Each year, the YCHC is required to set aside at least 15% of the HOME allocation for eligible Community Development Housing Organization (CHDO) activities under the HOME Program. AHDC meets the qualifications and is certified as CHDO by YCHC. YCHC approved the following HOME funds to develop 2 HOME units (listed above) in the Magnolia Gardens project:

2021/2022 - \$ 124,935.00  
 2022/2023 - \$ 99,586.34  
 2023/2024 - \$ 322,438.66  
 2024/2025 - \$ 33,326.00  
 \$ 580,286.00

By this action, City Council authorizes the City Administrator to execute a Development Loan Agreement and associated documents in substantially the form attached on behalf of the Yuma County HOME Consortium providing \$2,321,108.60 in HOME-ARP and \$580,286.00 in HOME funds totaling \$2,901,394.60 to develop the Magnolia Gardens Apartment project. The no-interest loan will have a 20-year term and must meet all HOME and HOME-ARP requirements throughout this period. After the 20-year period of affordability on 10 of the 16 units, the loan will be forgiven.

**FISCAL REQUIREMENTS:**

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 2,901,394.60
STATE FUNDS:	\$ 0.00	AVAILABLE TO TRANSFER:	\$ 0.00
FEDERAL FUNDS:	\$ 2,901,394.60	IN CONTINGENCY:	\$ 0.00
OTHER SOURCES:	\$ 0.00	FUNDING: ACCOUNT/FUND #/CIP	
TOTAL \$ 0.00			
163-30-30	167-30-30		
To total; right click number & choose "Update Field"			

**FISCAL IMPACT STATEMENT:**

None

**ADDITIONAL INFORMATION:**

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

HOME-ARP Allocation Plan

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

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

Acting City Administrator: John D. Simonton	Date: 04/08/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/08/2025

# HOME/HOME-ARP Development Loan Agreement

## Magnolia Gardens

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This HOME and HOME-ARP Development Loan Agreement (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by and between the City of Yuma (“City”), an Arizona municipal corporation, on behalf of the Yuma County HOME Consortium (“YCHC”), and Arizona Housing Development Corporation (AHDC) (the “Borrower”), an Arizona non-profit corporation. The City and Borrower agree as follows:

### 1 DEFINITIONS

As used herein, the below words and phrases, wherever used in this Agreement, shall be construed as defined in this Section unless, from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- 1.1 “Affordability Period” shall mean the twenty (20) year period that the HOME-Assisted Units and HOME-ARP Assisted Units must remain affordable in compliance with 24 CFR 92.252. The Affordability Period for both the HOME-Assisted Units and the HOME-ARP Assisted Units will begin on the completion date in the Certificate of Completion and will end twenty (20) years from that date.
- 1.2 “Agreement” shall mean this Agreement.
- 1.3 “Architect” shall mean the Project architect Thompson Design Architects, an Arizona corporation.
- 1.4 “AHDC” means the Arizona Housing Development Corporation, an Arizona non-profit corporation and the legal entity that is responsible for and owns the Project with whom this Agreement is made.

- 1.5 “Certificate of Occupancy” shall mean the official certification issued by the City upon completion of the construction confirming the residential units are ready for occupancy.
- 1.6 “Closing Costs” shall have the same meaning as defined by the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 *et seq.* and shall mean those eligible ordinary and typical costs identified on the Settlement Statement (HUD-1) and payable to third parties associated with a real property transaction or costs associated with the development of the Project, limited to the following: surveys, title insurance, costs of appraisals, credit reporting, recording costs, holdings costs, prepaid condominium fees, if any, and initial property and mortgage insurance premiums, but shall not include any payment of principal on a loan, any taxes or any costs exceeding industry standard costs for the goods or services, relocation costs.
- 1.7 “Collateral” shall mean all assets pledged as security by AHDC and secured by the City’s Deed of Trust.
- 1.8 “Construction Contract” shall mean the guaranteed maximum price construction contract between AHDC and Contractor which must require that the final five percent (5%) of the total amount due the Contractor pursuant to the construction contract shall not be disbursed prior to 100% construction completion and separate written Certificate of Completion by the City.
- 1.9 “Construction Loan” shall mean the loan to be made by Foothills Bank to AHDC in the sum of \$1,045,000.00 to be used to finance the construction of the Project, which is secured by a first priority mortgage lien against the Property.
- 1.10 “Construction Loan Commitment” shall mean Foothills Bank’s written commitment (*which may be subject to certain conditions*) from Foothills Bank to make a Construction Loan.
- 1.11 “Contractor” shall mean Pilkington Construction, an Arizona corporation, the general contractor of the Project pursuant to the Construction Contract.
- 1.12 “Certificate of Completion” shall refer to attachment 13.
- 1.13 “Declarations” shall mean the Declaration of Affirmative Land Use Restriction Covenants for HOME-Assisted and HOME-ARP Assisted Property that will serve as the affordability and qualified population compliance lien used to restrict the

Project. The Declarations will be placed on the Property for a period of twenty (20) years from the date of the Certification of Completion. (see *Attachment No. 7*)

- 1.14 “Deed of Trust” means the instrument executed by AHDC, as the trustor, for the benefit of the City which secures payment of the Loan and compliance with the loan terms. (see *Attachment No. 9*)
- 1.15 “Development Budget” shall mean the Total Development Cost Budget and includes both the construction costs (*hard cost*) as well as all project soft cost summarized in Attachment 5.
- 1.16 “Event of Default” shall mean those events outlined in Section 3 and/or otherwise specifically stated as an Event of Default in this Agreement.
- 1.17 “HOME-Assisted Units” shall have the same meaning as used in 24 CFR 92.252 and shall mean the two (2) floating units at the Project assisted with HOME Program funds. The HOME-Assisted Units are further described in Section 7.21.1.
- 1.18 “HOME-ARP Assisted Units” shall have the same meaning as used in HUD Notice CPD-21-10, Requirements for the Use of HOME-ARP and shall mean the eight (8) floating units at the Project assisted with HOME-ARP Program funds. The HOME-ARP Assisted Units are further described in Section 7.1.
- 1.19 “Foothills Bank” shall mean Foothills Bank, the Construction Loan lender and the Permanent Loan lender.
- 1.20 “Laws” shall mean all ordinances, statutes, rules, regulations, orders, injunctions, writs or decrees of any government or political subdivision or agency or authority thereof (including, without limitation, the State of Arizona and the City of Yuma) or of any court or similar entity having jurisdiction over AHDC or the Project.
- 1.21 “Loan” shall mean the loan of up to a total of two million, nine hundred and one thousand, three hundred and ninety-four dollars and sixty cents (\$2,901,394.60) to be made by the City to AHDC for work on the project. The loan, guaranteed by AHDC subject to the terms identified in Section 3 of this Agreement, consists of: (a) up to \$124,935.00 of HOME funding from Fiscal Year 2021/2022; (b) up to \$99,586.34 from Fiscal Year 2022/2023 HOME funds; (c) up to \$322,438.66 from Fiscal Year 2023/2024 HOME funds; up to \$33,326.00 from Fiscal Year 2024/2025 HOME funds; and up to \$2,321,108.60 of 2021/2022 in HOME-ARP funds. The loan

is to be used for the construction and development of the project pursuant to this Agreement.

- 1.22 “Loan Documents” shall mean this Agreement, the Notes, the Deed of Trust, the Declarations, and any and all other documents now or hereafter executed by AHDC or any other person or party to evidence or secure the payment of the Loan or the performance and discharge of the obligations of AHDC and all amendments, modifications, and supplements thereto. The terms of the Notes, Deed of Trust, and Declarations are more fully set forth in *Attachments No. 7 - 9*.
- 1.23 “Notes” shall mean collectively, subject to the requirements of Section 3: (a) a promissory note in the original principal amount of \$2,901,394.60 of even date herewith executed by AHDC, payable to the order of the City and all renewals, amendments, reinstatements, rearrangements, enlargements, modifications or extensions of the Notes or of any other promissory note or notes given in substitution thereof. (see *Attachment No. 8*)
- 1.24 “Permanent Loan” shall mean a permanent loan in the amount of \$1,045,000 from Foothills Bank.
- 1.25 “Permitted Encumbrances” shall mean: (i) the lien of the deed of trust against the Project securing the Construction Loan and Permanent Loan; (ii) the Deed of Trust against the Project securing the Loan; (iii) a Deed of Trust, Assignment of Rents and Security Agreement for a loan of \$308,908 from AHDC (“Sponsor Loan”); (iv) the Declarations to ensure program long term affordability required for the Loan; (v) liens for taxes, assessments or similar charges incurred in the ordinary course of business that are not yet due and payable; (vi) all liens and other encumbrances approved by the City in writing. The order of Permitted Encumbrances set forth in this Subsection 1.24 does not reflect the order of priority for the Permitted Encumbrances; such priority will be established by a subordination agreement and/or the Deed of Trust, as further set forth in the Title Policy.
- 1.26 “Plans and Specifications” shall mean those plans and specifications prepared by the Architect and approved by AHDC, Contractor and the City for the construction of the Project and all amendments and modifications thereof.
- 1.27 “Project” means the land, building, fixtures, furnishings and all improvements for, on and in the multi-family residential buildings and land located at 430 S. Magnolia Avenue, Yuma, Arizona 85364 (as more fully described in *Attachment No. 2 and*

6). AHDC owns the Property on which Magnolia Gardens will be located and will serve as the developer of the Project in accordance with HUD requirements.

- 1.28 “Project Schedule” shall mean that critical path schedule identifying project milestones from planning, construction and project completion (*Attachment No. 3*).
- 1.29 “Site” means a parcel or portion of a parcel of land on which the Project is intended to be developed or rehabilitated as described in AHDC’s HOME and HOME-ARP funding application(s).
- 1.30 “Sources and Uses of Funds Budget” shall mean the sources of funding described in the Scope of Development, Attachment 6, and the Development Budget as more fully set forth in *Attachment No. 5*.
- 1.31 “Title Company” shall mean Security Title Agency, the title company that will issue City’s Lender’s ALTA 2006 title policy for the project.
- 1.32 “Title Policy” shall mean an ALTA 2006 Form B mortgagee’s title insurance policy in the amount of the Loan and in favor of the City and which is in all respects satisfactory to the City ensuring that the City has a second priority deed of trust on the Project subject only to the Permitted Encumbrances.
- 1.33 “Work” shall mean that scope of work as identified in Attachment 5 of this Agreement and detailed in the architectural construction plans and specifications for the Project.

## 2 SUBJECT OF AGREEMENT

### 2.1 Agreement Pursuant to Federal HOME Program

The YCHC is a recipient of HOME Investment Partnerships Program (HOME) funds from the Department of Housing and Urban Development (HUD) as a participating jurisdiction for program years 2021 through 2024. The City acts on behalf YCHC.

The HOME Program requires a minimum of fifteen (15%) percent of the HOME allocation is to be set aside annually for use by eligible Community Housing Development Organizations for the development of affordable housing. AHDC has met all HUD-established requirements pertaining to its legal status, organizational structure, capacity, and experience for CHDO designation described in *Attachment 1*.

AHDC shall act as owner and developer of the Project described herein and will utilize HOME Funds as defined below to construct 16 rental housing units; two (2) of which will be designated as HOME units and rented to, and occupied by, income eligible individuals and families.

As a recipient of federal funds, the City, on behalf of YCHC, may loan or grant money to eligible borrowers to provide housing for low-income individuals or families. This Agreement is made pursuant to the HOME Program and the Borrower must comply with all rules and regulations under the HOME Program, as well as all land use regulations, codes, and laws affecting acquisition, ownership, use, improvement, or development of the Property (hereinafter defined), and the vacation or abandonment of public rights-of-way and easements. Nothing in this Agreement constitutes an exemption or grant of a variance from applicable codes and laws.

## 2.2 Agreement Pursuant to Federal HOME-ARP Program

The YCHC is a recipient of HOME American Rescue Plan Program (“HOME-ARP”) funds, which are administered by the HUD, pursuant to 42 U.S.C. §§ 3535(d) and 12701 through 12839 and 24 CFR. Part 92 (the “HOME Program Requirements”) (quoted terms, when not otherwise defined herein, have the meanings assigned by HUD, the HOME-ARP Program requirements, and their associated laws and regulations). Under the HOME-ARP Program, HUD allocated federal funds to the City, to provide affordable housing to Qualified Populations (QP). The term “Qualified Populations” refers to individuals or families that are (1) Homeless, as defined in 24 CFR 91.5; (2) At risk of homelessness, as defined in 24 CFR 91.5; (3) Fleeing, or attempting to flee, domestic violence, sexual assault, stalking, or human trafficking, as defined by HUD; and (4) Other populations. Eight (8) of the units will be designated as HOME-ARP units and rented to, and occupied by, Qualified Populations.

As a recipient of HOME-ARP, the YCHC acts through the City which may loan or grant money to eligible borrowers to provide housing for QP and low-income individuals or families. This Agreement is made pursuant to the HOME-ARP Program and any such borrower must comply with all rules and regulations under the HOME-ARP, as well as all land use regulations, codes, and laws affecting acquisition, ownership, use, improvement, or development of the Property (hereinafter defined), and the vacation or abandonment of public rights-of-way and easements. Nothing in this Agreement constitutes an exemption or grant of a variance from applicable codes and laws.

## 2.3 The Property, the Project, and Funding Sources

### 2.3.1 Property

The Borrower will construct sixteen (16) rental housing units in two residential buildings. The project is located at 430 S. Magnolia Avenue, in the City of Yuma, Arizona (the "Project"). The location of the Property is shown on the "Site Map" attached as *Attachment No. 4*. "Property" means the real property described in the "Legal Description," attached as *Attachment No. 2*, and all present and future improvements located thereon.

### 2.3.2 Loan and Project

Subject to the terms and conditions of this Agreement, the City will extend to Borrower a loan (as described in *Section 3.1* hereof, the "Loan"), which Borrower will use toward the development of the affordable housing complex. Borrower must complete each milestone of the Project by no later than required in the schedule of performance *Attachment No. 3* (the "Schedule of Performance"), and Borrower must deliver each phase of the Project having no less than the attributes required by *Attachment No. 6* (the "Scope of Development"). Borrower will operate the Project and Property in accordance with this Agreement, and the units therein shall be designated as required by this Agreement.

### 2.3.3 Funding Sources

Borrower will construct the Project with the following funding sources: (i) a construction loan in the approximate original principal amount of \$1,045,000 to Borrower by Foothills Bank, (the "Construction Loan" or "Approved Loan"); (ii) a loan from the City through the HOME Program in the amount of \$580,286; (iii) the HOME-ARP Loan in the amount of \$2,321,108.60; and (iv) AHDC investment in the amount of \$380,908.

## 2.4 Parties to the Agreement

### 2.4.1 City

The City is a municipal corporation of the State of Arizona, a public body corporate, which is organized and existing under the laws of the State of Arizona. The principal office of the City is located at One City Plaza, Yuma, Arizona 85364. For purposes of this Agreement, the City of Yuma acts on behalf of the Yuma County HOME Consortium, which is comprised of Yuma County, the Cities of San Luis, Somerton, and Yuma, and the Town of Wellton, Arizona.

#### 2.4.2 Borrower

Borrower is a 501 (c) 3 non-profit corporation, organized and existing under the laws of the federal government and the state of Arizona. The principal office of Borrower is located at 420 South Madison Avenue, Yuma, Arizona. The term “Borrower” includes any of Borrower’s successors and permitted assigns which have assumed the obligations of Borrower under this Agreement and any other Loan Document (as defined in *Section 3.3* hereof) with the prior written consent of the City.

#### 2.4.3 No assignment

City and Borrower agree that Borrower is uniquely qualified to perform the obligations imposed by this Agreement, and, therefore, this Agreement may not be assigned by Borrower without the prior written consent of the City.

#### 2.5 Eligible Borrower

Borrower represents and warrants to the City that: it is eligible under the HOME Program to receive the Loan; Borrower is a non-profit corporation that will construct, own, and operate the Project; and Borrower is eligible for set-aside HOME CHDO funds. The City of Yuma certified the Borrower as a new CHDO for the Magnolia Gardens Project on January 24, 2025.

#### 2.6 Independent Contractor

Borrower is an independent contractor in the performance of all activities, functions, duties and obligations pursuant to this Agreement. Borrower and the City are not and will not be considered as joint venturers, partners, or agents of each other. Borrower’s employees, agents and subcontractors will not be considered officers, employees, agents or subcontractors of the City. Both the City and Borrower agree not to represent to anyone that one is the agent of the other or has authority to act on behalf of the other.

### 3 AMOUNT AND GENERAL TERMS OF THE LOANS

#### 3.1 The Loan

Borrower will borrow funds from the City and, subject to strict and full compliance with the terms and conditions hereof, and in reliance upon the representations and warranties set forth herein, the City agrees to make the Loan to and for the benefit of Borrower in the amount of \$2,901,394.60 in HOME and HOME-ARP funds (the “Loan”) as follows.

### 3.1.1 Development Budget

Borrower will use the loan to construct the project, in accordance with the *Attachment No. 6* Scope of Development and the Development Budget attached as *Attachment No. 5* dated March 10, 2025.

### 3.1.2 Note

The loan will be offered as a forgivable Deferred Payment Loan (DPL) at zero percent (0%) interest for a 20-year period. The Borrower must sign a Promissory Note and Deed of Trust, equal to the amount of the Loan. The security instruments will enforce the provisions of this policy and direct any recaptured HOME or HOME-ARP funds back to the City. During the period of affordability, the security instruments will require repayment of the Loan upon: (i) transfer or sale of the property; and (ii) noncompliance with HOME and HOME-ARP requirements. A promissory note in the form of *Attachment No. 8* will evidence borrower's indebtedness and obligation to repay the Loan. The Note will promise payment of an amount up to \$2,901,394.60.

### 3.1.3 Term

The Loan will have a term of 20 years from the date the Certificate of Completion is recorded.

### 3.1.4 Annual Project Cash Flow Analysis Report

Borrower shall prepare and deliver to City a cash flow analysis report (the "Annual Project Cash Flow Analysis Report"), showing the sources and uses of all Project funds. The Annual Project Cash Flow Analysis Report shall be for the preceding calendar year (that is, the preceding year beginning in January and ending in December). The Annual Project Cash Flow Analysis Report shall be certified as correct by Borrower.

### 3.1.5 Acceleration

The Loan shall become due and payable upon the transfer of the Property in violation of *Section 5.4.2* hereof.

### 3.1.6 Event of Default

Upon the occurrence of an Event of Default under this Agreement or the other Loan Documents, the failure of the Property to pass the inspection for compliance as required by this Agreement, the failure of Borrower to submit the Annual Reports on or before the due dates as required by this Agreement, or disapproval of the Annual Reports by the City pursuant to the terms of this Agreement, the full amount of HOME and HOME-ARP funds loaned shall be immediately due and payable.

## 3.2 Collateral

Borrower’s performance under the Loan Documents, including all extensions, renewals or replacements thereof, will be secured by the following described collateral (collectively, the “Collateral”):

### 3.2.1 Real Property

Borrower will execute and deliver a deed of trust in favor of the City describing the Property and securing Borrower’s obligations under the Note and the other Loan Documents (the “Deed of Trust”). The Deed of Trust will be in the form of *Attachment No. 9*. At the time of recording, the Deed of Trust will give the City a second-priority lien position against the Property, and all improvements now or hereafter located on the Property, subject only to the lien securing the Construction Loan, or Permanent Loan, and such other matters as may be specifically approved by the City in writing by an appropriate instrument.

### 3.2.2 Other Documents as Needed

Borrower will execute (or cause to be executed) and deliver to the City such other documents or instruments as the City may reasonably require in connection with the Loan or either of the HOME Programs.

## 3.3 Loan Documents

This Agreement, the Declaration (as defined herein), the Note, the Deed of Trust, the Financing Statements, and any other documents or instruments required by the City in connection with the Loan are collectively the “Loan Documents.”

## 3.4 Financing

Borrower will apply for and obtain funding for the Project from the funding sources outlined in *Section 2.3.3* hereof. Borrower hereby attests that the amounts of these funding sources will be sufficient for completion of the Project and will be used for completion of the Project, payment of developer fee and other costs associated with the Project.

## 3.5 Legal Limits

### 3.5.1 Agreement to rates

Borrower agrees to effective rates of interest for the Loan, which is the rate stated in *Section 3.1.2* hereof plus any additional rates of interest resulting from any other payments in the nature of interest, including, without limitation, any late charges to the extent that such charges may be deemed includable in interest for any purpose.

### 3.5.2 No usury

All agreements between Borrower and the City are hereby expressly limited so that in no event whatsoever, whether by reason of deferment in accordance with this Agreement or under any agreement, or by virtue of acceleration or maturity of the Loan, or otherwise, will the amount paid or agreed to be paid to the City for the loan, use, forbearance or detention of the Loan or to compensate the City for damages suffered by reason of a late payment or default under this Agreement, exceed the maximum permissible under applicable law. If, from any circumstances whatsoever, fulfillment of any provision of this Agreement or any provision in the security for this Agreement, at the time performance of such provision is due, involves exceeding the limit prescribed by law, ipso facto the obligations to be fulfilled will be reduced to the limit of such validity. This provision will never be superseded or waived and will control every other provision of all agreements between Borrower and the City.

## 3.6 Borrower's Exculpation

### 3.6.1 Personal liability generally limited

Subject to the provisions of this *Section 3.6* and notwithstanding any other provision in the Note, the personal liability of Borrower, and of any officers, partners or member of Borrower and of any other person or entity, including Borrower's partners, to pay the principal of and interest on the Borrower's debts evidenced by the Note and any other agreement evidencing Borrower's obligations under the Note or the other Loan Documents shall be limited to (1) the Collateral, and (2) the rents, profits, issues, products and income of the Project, including any received or collected by or on behalf of Borrower after an Event of Default and not applied to the payment of principal and interest due under the Note or any Approved loan or payment of utilities, taxes and assessments, insurance premiums and ground rents, if any, on the Project and other reasonable and customary operating expenses of the Project (but not including any fees or other payments of any kind or nature made to Borrower or any affiliate or related entity of Borrower, except for an asset management fee and/or property management fee paid to any affiliate for management services not in excess of 6% of gross rents actually received for the Project) as they become due and payable, except to the extent that Borrower did not have the legal right, because of a bankruptcy, receivership, or similar judicial proceeding, to direct the disbursement of such sums.

### 3.6.2 No pursuit

Except as provided in this *Section 3.6*, the City shall not seek (1) any judgment for a deficiency against Borrower, any officer or member of Borrower, or Borrower's heirs, legal representatives, successors or assigns, or the heirs, legal representatives, successors or assigns of any member of Borrower, or any other person or entity, in any action to enforce any right or remedy under the Loan Documents or (2) any judgment on the Note, except as may be necessary in any action brought under the Loan Documents to enforce the lien against the Project.

### 3.6.3 When liable

Except as provided in this *Section 3.6*, Borrower shall be personally liable in the amount of any loss, damage, or cost to the City resulting from:

#### 3.6.3.1 Fraud

Fraud or intentional (knowing or purposeful) misrepresentation by Borrower in connection with obtaining the Loan evidenced by the Note;

#### 3.6.3.2 Payments

Insurance proceeds, condemnation awards, or other sums or payments attributable to the Project not applied in accordance with the provisions of the Loan Documents, except to the extent that Borrower did not have the legal right, because of a bankruptcy, receivership or similar judicial proceeding, to direct disbursement of such sums or payments;

#### 3.6.3.3 Rents, et al.

All rents, profits, issues, products, and income of the Project received or collected by or on behalf of Borrower following any Event of Default under the Loan Documents and not applied to payment of principal and interest due under the Note and payments of utilities, taxes and assessments, insurance, ground rents, and liens attaching by operation of law, if any, on the Project, and other reasonable and customary operating expenses of the Project (but not including any fees or other payments of any kind or nature made to Borrower or any affiliate or related entity of Borrower except for a management fee paid to any affiliate for management services not in excess of \$50 per unit per month (increasing annually by 3%); and not including liens of affiliate of Borrower or security instruments of lenders to Borrower, except as allowed by a separate Subordination Agreement between the City

and such secured party) as they become due or payable, except to the extent that Borrower did not have the legal right, because of a bankruptcy, receivership, or similar judicial proceeding, to direct the disbursement of such sums;

#### 3.6.3.4 Breach

A breach of any environmental representation, obligation, or warranty made or undertaken by Borrower in the Loan Documents or any other document executed by Borrower in connection with the Loan evidenced by the Note;

#### 3.6.3.5 Repair

Amounts necessary to repair or replace any damage caused by the willful or wanton act or omission of Borrower;

#### 3.6.3.6 Transaction costs

Borrower's failure to pay transfer fees and charges (if any) due the City under the Note or the Loan Documents in connection with any transfer of all or any part of the Project, or any interest therein, from Borrower to Borrower's transferee, or transfer of beneficial interest in Borrower (if Borrower is not a natural person or persons but is a corporation, partnership, trust or other legal entity);

#### 3.6.3.7 Tenant security deposits

Security deposits paid by tenants improperly retained by Borrower;  
or

#### 3.6.3.8 Default penalties

Sums then due and thereafter to become due to the City under *Section 8* hereof.

#### 3.6.4 Noninterference

No provision of this *Section 3.6* shall (1) affect any guaranty or similar agreement executed in connection with debt evidenced by the Note, (2) release or reduce the debt evidenced by the Note, or (3) impair the lien of the Deed of Trust.

## 4 CONSTRUCTION

### 4.1 Escrow and Escrow Instructions

Borrower has caused escrow 74803517 to be opened (the "Escrow") with the escrow department of Pioneer Title Agency, Inc., an Arizona corporation (the "Escrow Agent"), whose address is 350 W 16<sup>th</sup> Street, Site 116. Yuma, AZ 85364,

to close the loans in connection with the Property. This Agreement will serve as the instructions of Borrower and the City to the Escrow Agent, which instructions will not be revised, extended, or supplemented without the mutual written consent of the parties and the written acceptance of the Escrow Agent. A duplicate of this Agreement will be delivered to the Escrow Agent by Borrower, and the Escrow Agent hereby is empowered to act under this Agreement to carry out its duties as set forth herein. These duties together with their terms and conditions are set forth below:

#### 4.1.1 Loan Documents

Borrower will deliver the Loan Documents to the Escrow Agent as required by *Section 6.13* hereof, and will deposit or cause to be deposited in the Escrow any funds necessary to pay the escrow fees, the recording fees, the cost of the Title Policy described in *Section 6.2* hereof and any other fees necessary to complete the Scope of Development, to the extent any such fees and costs are not to be funded with the Loan.

#### 4.1.2 Declaration

Borrower will execute and deliver to the Escrow Agent a copy of the fully executed Declaration of Affirmative Land Use Restrictive Covenants for HOME and HOME-ARP Loan in the form of *Attachment No. 7* (the "Declaration"), which will require that Borrower utilize the Property in compliance with this Agreement and the affordability requirements set forth in 24 CFR 92.252 (the "Affordability Requirements"). The City will be an intended beneficiary of the restrictive covenants in the Declaration and have the right to enforce them.

#### 4.1.3 Escrow Agent action

When the Escrow Agent is able to record the Declaration, the Deed of Trust, and a Financing Statement in the Office of the Yuma County Recorder, file a Financing Statement in the Office of the Arizona Secretary of State, and issue the Title Policy, provided that no Event of Default has occurred or remains uncured, the Escrow Agent is authorized to and will:

- A. Record the Declaration, Financing Statement and the Deed of Trust in the Office of the Yuma County Recorder;
- B. File a Financing Statement in the Office of the Arizona Secretary of State;
- C. Cause the Title Policy to be issued in the form described in *Section 6.2* hereof and delivered to the City;

- D. Deliver the original recorded Declaration, Deed of Trust, and Financing Statement to the City, together with the other original fully executed Loan Documents and a copy of the final audited settlement statement;
- E. Collect, and charge Borrower, for any fees, charges, and costs payable by Borrower under this *Section 4.1*; and
- F. Deliver conformed copies of the recorded Declaration, Deed of Trust, and Financing Statement to the City.

#### 4.1.4 Use Notice addresses

All communications from the Escrow Agent to the City, the Borrower, or the Lender will be directed to the addresses and in the manner established in *Section 9.7* hereof for notices, demands, and communications between the City and the Borrower.

#### 4.1.5 Escrow Agent liability

The liability of the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon the Escrow Agent under this *Section 4.1*.

#### 4.1.6 No fees to City

The City shall not be liable for any fees or expenses which may arise in connection with this transaction, including, without limitation, escrow fees, title insurance premiums, real estate commissions, and brokerage fees.

### 4.2 Disbursement of Loan

#### 4.2.1 Request for Disbursement Schedule

Provided Borrower has satisfied the conditions precedent set forth in Section 6, hereof and is otherwise in full compliance with the terms and conditions of this Agreement, Borrower will be entitled to request disbursements from the Loan on a monthly basis (up to the amount of the Loan in the aggregate) for the cost items (each a “Cost Item”) reflected in the Development Budget; and if approved by the City, the City will be obligated to disburse the requested Loan amount within 30 calendar days, in form and substance acceptable to the City, in accordance with the terms and conditions in this section. AHDC may not request disbursement of Loan funds until the funds are needed for a payment of eligible costs; the amount of each request must be limited to the amount needed. The City will only reimburse for work performed and materials installed and in place on the Project.

#### 4.2.1.1 Request for Disbursement

To receive payment, AHDC must submit to the City a reimbursement request in a form acceptable to the City, with supporting documentation. Supporting documentation for all Requests for Disbursement must include the AIA document G702, Application for Payment form signed by AHDC setting forth such details concerning the status of the Project as the City may require, including the amounts expended for construction to the date of said Request for Disbursement, and the amounts then due and unpaid on account of such construction. Soft costs may be requested if they were incurred not more than 24 months before the date of this Loan Agreement and the Cost Item is reflected in the Development Budget.

#### 4.2.1.2 Supporting Documents

Requests must include the AIA Document G702 (or other form acceptable to the City) signed by AHDC as well as supporting invoices, payment receipts, lien waivers, building permits, Inspection Approval Progress Report certified by project architect, and such certifications by Borrower evidencing the reasonableness and appropriateness of the costs of the Project (collectively, the “Supporting Documents”).

#### 4.2.1.3 Statutory liens

Satisfactory evidence that the applicable lien periods have expired or, in lieu thereof, that Borrower has received lien waivers or releases from all contractors, subcontractors, laborers and materialmen, and that any materialmen’s or mechanic’s liens that may have been recorded have either been paid in full or Borrower has posted an appropriate surety bond to discharge the same.

#### 4.2.1.4 Disbursement

The City may but has no duty to inspect the work completed that is the subject of a Request for Disbursement or cause an inspection of the work completed to be conducted by a qualified architect or engineer of the City’s selection, to verify the statements contained in the Request for Disbursement and Supporting Documents. After receipt of the required documents and completion of any inspection by or caused by the City, the City will compute the difference between the percentage of completion for each Cost Item approved by the City at the time of the current Request for

Disbursement and the percentage of completion for each Cost Item approved by the City at the time of the immediately preceding approved Request for Disbursement, and will disburse an amount equal to 90% of the product of the percentage difference for each Cost Item and the total projected cost for each such Cost Item.

#### 4.2.2 Closeout Disbursement

The remaining 10% of the Loan will be disbursed upon delivery by Borrower of each of the following to the City, in form and substance acceptable to the City, in accordance with the following terms and conditions:

- A. A written request for disbursement, in form and substance satisfactory to City, setting forth such details concerning completion of the Project as the City may require, including the amounts expended to complete the Project.
- B. A written certificate and warranty, in form and substance satisfactory to City, signed by Borrower, certifying that the Project has been “substantially completed” in accordance with the Scope of Development and Plans. For purposes of this Agreement, “substantially completed” means that the development required by the Scope of Development and the Plans is so substantially complete that it satisfies the City of Yuma Minimum Property Standards (as defined in *Section 4.3.8* hereof), all applicable building, plumbing and electrical codes, construction standards, environmental regulations and zoning ordinances, and all other requirements of the City of Yuma and any other governmental authorities have been satisfied, including all inspections required by those authorities, and is ready to be occupied by tenants in accordance with this Agreement, all as determined by the City.

##### 4.2.2.1 Governmental Licenses and Permits

A written certificate and warranty, in form and substance satisfactory to City, signed by Borrower certifying that there are no liens of any kind filed against Borrower, the Property or any portion of the Property, that all governmental licenses and permits required for the Property as completed have been obtained and will be exhibited to the City upon request, and that no Event of Default (as defined in *Section 8.1* hereof) has occurred or is

continuing, and no event has occurred that with notice or lapse of time or both would constitute an Event of Default.

#### 4.2.2.2 Title insurance endorsements

Satisfactory title insurance endorsements from the title company issuing the Title Policy showing the Deed of Trust to be a valid and enforceable lien or charge upon the Property, subject only to those exceptions approved by the City.

#### 4.2.2.3 Supporting documents

Satisfactory supporting invoices, payment receipts and such other certifications by Borrower, evidencing the reasonableness and appropriateness of the costs of developing the Project, as the City may request.

#### 4.2.2.4 Statutory liens

Satisfactory evidence that the applicable lien periods have expired or, in lieu thereof, that Borrower has received lien waivers or releases from all contractors, subcontractors, laborers and materialmen, and that any materialmen's or mechanic's liens that may have been recorded have either been paid in full or Borrower has posted an appropriate surety bond to discharge the same. The City agrees to inspect the Property or cause an inspection of the Property to be conducted by a qualified representative of the City, to verify the statements contained in the disbursement request and supporting documents within 10 business days after the City's receipt of a request for disbursement and receipt of the required documents and title insurance clearance.

#### 4.2.3 No disbursement if off budget

If at any time it appears to the City that the undisbursed portion of the Loan and other sources of funds for construction as described in *Section 2.3.3* hereof are insufficient to pay for the completion of the Project in accordance with the Scope of Development and the Plans and to pay for any other costs and expenses contemplated hereunder, the City will not be required to make further disbursements hereunder unless and until within 5 business days of delivery of notice from the City to Borrower of such deficit, Borrower deposits with the City or the construction lender, in cash or instruments satisfactory to the City, the amount the City deems necessary to cure the deficit.

#### 4.2.4 Revised budget

Notwithstanding the foregoing, Borrower will be permitted to submit a revised budget to the City after the date of this Agreement, and if approved by the City Administrator, such revised budget will be substituted for *Attachment No. 5* dated March 10, 2025, and be deemed to be the budget for purposes of this Agreement.

### 4.3 Construction Contract Requirements

#### 4.3.1 Construction Contract

All construction contracts entered into by Borrower for the Project (each a “Construction Contract”) will require that the Project be commenced, executed and completed within the time limits set forth in *Section 7.8* hereof and in the Schedule of Performance.

#### 4.3.2 Contractors

Each Construction Contract will require the general contractor (the “General Contractor”) or the Borrower to obtain adequate builder’s all-risk, fire and general liability insurance coverage, from an insurance company and in amounts satisfactory to Borrower and the City, to ensure the completion of the Project and to prevent the City or Borrower from incurring any liability for claims arising from the construction or development of the Property pursuant to this Agreement. Said insurance will be in addition to, and will not take the place of, the coverage and indemnification pursuant to *Section 7.9 hereof*. Borrower will obtain and furnish the City with verification that insurance pursuant to this *Section 4.3.2* has been obtained by the General Contractor prior to the commencement of construction of the Property. Each such Construction Contract shall require the General Contractor to furnish a bond or bonds covering the Contractor’s faithful performance and completion and the payment of all obligations arising thereunder in such form as may be approved by the City and with such insurance company or other surety as City may approve, which approval will not be unreasonably withheld.

#### 4.3.3 Contracts

Borrower will provide the City with photocopies of each of the Construction Contracts, any amendments or substitutes approved by the City, all bonds, and any and all other contracts executed pursuant to this Agreement.

#### 4.3.4 Retention

The Construction Contracts and any other contract for construction or development executed pursuant to this Agreement will provide for a retention by Borrower of 10% of the contract amount, except as provided in the Standard Form of Agreement between Owner and Contractor where the basis of payment is a Stipulated Sum, between AHDC (Owner) and Pilkington Construction Company (Contractor), dated March 18, 2025, until the requirements of *Section 4.2.2* hereof have been satisfied.

#### 4.3.5 Equal Employment Opportunity

All contracts executed in connection with development of the Site (including all agreements with subcontractors) will comply with *Section 7.11* hereof.

#### 4.3.6 Section 3

Borrower shall include the following in its contract with the General Contractor (referred to as contractor in this section) and ensure that the General Contractor includes the same in all subcontracts:

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that the employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low - and very low-income persons in the project area.

The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the

name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontractor in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

The contractor will certify that any vacant employment positions, including training positions, that are filled: 1) after the contractor is selected but before the contract is executed; and 2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.

#### 4.3.7 Minority Businesses, Women's Business Enterprises and Disadvantaged Business Enterprises

Pursuant to 2 CFR § 200.321, Borrower will make a good faith effort by demonstrating affirmative steps to encourage contracting with small minority and women owned business enterprises, and Disadvantaged Business Enterprises when possible as sources of supplies, equipment, construction, and services.

Borrower will use the services and assistance of the Small Business Administration and the Arizona Minority Business Development Agency as required.

#### 4.3.8 Minimum Property Standards

The Property developed hereunder must meet the HUD minimum property standards as defined under HOME, as well as all applicable City of Yuma building, plumbing and electrical codes, construction standards, environmental regulations, zoning, HUD minimum property standards, and other ordinances.

## 5 REPRESENTATIONS, WARRANTIES, AND COVENANTS REGARDING THE PROPERTY AND BORROWER

### 5.1 Title

To induce the City to make the Loan, Borrower represents, warrants, and covenants to the City as follows:

#### A. Possession of Title

Funds will not be disbursed until the Borrower has taken title to and possession of the Property. On the date of the equity closing, which is to include the possession of title in accordance with Section 5.2, Borrower will record a Declaration, which will require that Borrower utilize the Property in compliance with *Section 7.15* hereof and the Affordability Requirements. The City will be an intended beneficiary of the restrictive covenants set forth in the Declaration and have the right to enforce any restrictive covenant set forth in the recorded Declaration. This Agreement, including the Affordability Requirements, will be void in its entirety if Borrower does not obtain possession of title to the Property.

#### B. Condition of Title

Borrower will have on the date of the equity closing, good and marketable fee simple title to the Property free and clear of all liens, charges, claims, options, encumbrances, and other matters except for such other matters as may be affirmatively approved in writing by the City.

### 5.2 Loan Commitments; Commencement and Completion of Development

#### 5.2.1 Evidence of funding

Prior to the closing of the Loan and on or before the dates set forth in the Schedule of Performance, Borrower will provide the City with evidence, satisfactory to the City in its reasonable discretion, that Borrower has received unconditional commitments for, or has received, funds from the funding sources as described in *Section 2.3.3* hereof.

#### 5.2.2 Schedule of Performance

Borrower will complete work on the Project in accordance with the respective dates set forth in the Schedule of Performance, *Attachment No. 3 dated March 10, 2025*, subject to any extensions approved by the City in writing. The City's approval of any such extensions may not be unreasonably withheld, continued, or delayed. Any City decision to decline to approve extensions is per se reasonable if: there exists any Borrower default in relation to this Agreement; or if the Project, at the time of such decision, fails to comply with the City's Affordable Housing Loan Program

and Underwriting Guidelines. The Borrower must request an extension in writing.

### 5.3 Liens

Except as provided in this Agreement, Borrower has made no contract or arrangement of any kind which has given rise to, or the performance of which by the other party thereto would give rise to, a lien or claim of lien on the Property or any portion of the Property.

### 5.4 Restriction against Changes in Ownership, Management, and Control

#### 5.4.1 Sole purpose

The purchase of the Property by Borrower and the undertakings pursuant to this Agreement are and will be for the purpose of developing the Project to provide affordable housing to low-income families and not for speculation in landholding. No voluntary or involuntary successor in interest of Borrower may acquire any rights or powers under this Agreement without the prior written consent of the City.

#### 5.4.2 No ownership or control change

Except as expressly permitted herein, Borrower may not transfer, assign, convey, encumber, or lease the Property or any portion of the Property, or any equity interest, without the prior written consent of the City, except for individual units leased in the ordinary course of business.

#### 5.4.3 Instruments affecting interest of Borrower

Except for the leases described in *Section 7* hereof or as otherwise permitted herein, Borrower will provide the City with a copy of any proposed contract, agreement, document, or related instrument which, if executed, would directly or indirectly convey, assign, encumber or change Borrower's interest as outlined in this *Section 5*. Borrower will indemnify, defend and hold the City harmless from and against all claims, demands and obligations asserted by or from any party claiming a right, interest or ownership in this Agreement, the Property or the Project, whether through or with Borrower or arising out of or in connection with any relationship entered into by Borrower.

### 5.5 Organization and Name

Borrower is a duly formed Non-Profit 501(c)(3) under the laws of Arizona and is qualified to transact business in the State of Arizona and has all requisite power and authority to own its properties and to engage in the business it conducts. Arizona Housing Development Corporation is the exact legal name of Borrower.

Borrower does not transact business under any names other than Arizona Housing Development Corporation.

#### 5.6 Default in Indebtedness

Borrower is not in default with respect to any of its debts or obligations, and the making and performance of the Loan Documents will not (immediately, with the passage of time, or the giving of notice) result in any default under any contract, agreement, or instrument to which Borrower is a party or by which Borrower or the Property is bound or, to the best of Borrower's knowledge, violate any laws.

#### 5.7 Authority

Borrower has full power and authority to enter into the Loan Documents, and to incur the obligations therein, and has taken all action necessary to authorize the execution, delivery and performance of the Loan Documents. Fernando Quiroz, as President of Arizona Housing Development Corporation, is authorized to execute and deliver the Loan Documents on behalf of Borrower.

#### 5.8 Validity

The Loan Documents are valid, binding, and enforceable in accordance with their respective terms.

#### 5.9 Pending Litigation

Except as disclosed by Borrower to the City in writing prior to the date of this Agreement, there are no actions, suits, or proceedings pending, or to the best of Borrower's knowledge, threatened in any court or before any governmental authority against or affecting Borrower or the Property, which would materially impair the Property or Borrower's ability to perform the covenants or obligations required to be performed under any Loan Document, or involving the validity, enforceability, or priority of any of the Loan Documents.

#### 5.10 Compliance with Laws

To the best of Borrower's knowledge after due inquiry, Borrower has complied with all applicable laws with respect to any restrictions, specifications, or other requirements pertaining to the conduct of its business, including but not limited to, state and federal securities laws in connection with any sale of interests in the Property or Borrower. Borrower is not in default with respect to any governmental regulations.

## 6 CONDITIONS PRECEDENT TO LOAN

The City will not be obligated to make any disbursements on the Loan unless the following conditions precedent have been satisfied, as determined by the City in its sole discretion:

#### 6.1 Submission of Evidence of Additional Funding

Borrower will submit to the City satisfactory evidence that Borrower has deposited or caused to be deposited (or a commitment from all lenders to make available under a signed loan agreement) the funds necessary to pay all of the monies, instruments, and documents designated for Borrower to pay or deposit in *Section 5.1* hereof.

#### 6.2 Title Report, ALTA Policy and Surveys

Borrower will provide the City with: (a) a preliminary title report and commitment for the Property (the "Title Report") prepared by the title insurance department of the Escrow Agent (the "Title Company") evidencing that Borrower has title to Property as required in *Section 5*; (b) a binding commitment from the Title Company to issue to the City at Borrower's expense an ALTA extended coverage mortgagee's title insurance policy insuring the City's lien on the Property in the amount of the proceeds of the Loan (the "Title Policy"), subject only to those exceptions approved by the City in writing, and with such endorsements as the City will require; and (c) a boundary and encroachments survey of the Property and the improvements thereon, certified to the City and in form and substance satisfactory to the City (the "Survey"). The legal description shown on the Title Report and the Title Policy will be the same as reflected on the Survey, Borrower's deed to the Property, and on *Attachment No. 2*.

#### 6.3 Commitments for Other Funds

Borrower will provide the City with evidence satisfactory to the City in its sole discretion may determine that Borrower has received a commitment for all the loans or other financing transactions from the funding sources described in *Section 2.3.3* hereof. In addition, if any portion of the Project is to be financed by any other loan or grant, Borrower will provide the City with evidence satisfactory to the City in its reasonable discretion that Borrower has received a commitment for each loan or grant. In any event, the total amount of all the commitments for loans or grants together with other sources described herein will be sufficient, as determined by the City, for completion of the Project in accordance with the Plans and the Development Budget.

#### 6.4 Access to Site, Utility and Other Services

Borrower will provide the City with satisfactory evidence that for its proposed use of the Property: (a) there is adequate ingress and egress; (b) public water service is available or an adequate water supply from other sources is available; (c) adequate public sanitary sewer services are available; and (d) adequate electric power is available to the Property.

#### 6.5 Compliance with Government Regulations Related to the Project

Borrower will provide the City with satisfactory assurances that upon completion of the Project in accordance with the Plans, the Project will be in compliance with any and all applicable local codes, construction standards, environmental regulations, zoning and other ordinances for the City of Yuma, and HUD requirements. Upon completion of the Project, Borrower will provide the City with satisfactory proof that the Project is in compliance with the above. Items may include but are not limited to, green tags, certificate of occupancy, inspections, asbestos clearance reports, and Section 3 documentation.

#### 6.6 Labor Standards

All labor requirements set forth in 24 CFR 92.354, and if applicable, all construction contracts will contain all required wage provisions, including but not limited to, those required under; the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as amended; the Copeland Anti-Kickback Act of 1986, as amended; the Fair Labor Standards Act of 1938, as amended; and the provisions of 24 CFR Part 24 regarding Government-wide Debarment and Suspension, as amended.

#### 6.7 Expenses

Borrower will provide the City with satisfactory evidence that all Closing Costs, including, but not limited to, title searches, lien searches, recordation costs, escrow fees and title insurance premiums in connection with the Loan, have been paid on or before the date the Loan closes, to the extent such fees and costs are to be paid from moneys other than the Loan.

#### 6.8 Organizational Documents

Borrower will provide the City with copies of all organizational documents of Borrower, including a certificate of good standing; all certified by Borrower as of the date the Loan closes to be true, accurate and complete in all material respects.

#### 6.9 Insurance

Borrower will provide the City with evidence satisfactory to the City that Borrower has obtained the insurance required by *Section 7.9* hereof.

#### 6.10 Property Taxes and Assessments

Borrower will provide the City with evidence satisfactory to the City that all taxes and assessments levied against or affecting the Property and due and payable have been paid or are not yet delinquent.

- 6.11 **Authority to Borrow**  
Borrower will provide the City with proper borrowing resolutions and authorizations satisfactory to the City.
- 6.12 **HOME Program and Other HUD Regulations**  
Borrower will provide the City upon request with evidence satisfactory to the City that it is in compliance with all applicable HOME Programs and all other applicable HUD regulations.
- 6.13 **Loan Documents**  
Borrower will deliver to the City fully executed duplicate originals of each of the Loan Documents and a copy of the final documents evidencing the loans described in *Sections 3.3 and 6.3* hereof, if any.
- 6.14 **Appraisal**  
Borrower (at its sole cost and expense) will cause an independent appraiser to provide the City with a copy of an appraisal of the land value and the improvement value of the Property which reflects that the appraised value of the Property and Scope of Development as developed pursuant to the terms of this Agreement must equal or exceed the amount of the Loan.
- 6.15 **Plans**  
Borrower will provide the City with a copy of detailed plans and specifications for the Project and any amendments thereto (the "Plans") and a Survey acceptable to the City which will include a site plan and a legal description consistent with *Attachment No. 2*, lot and improvement measurements, location of adjoining streets (or the distance to the nearest intersecting streets), and location and elevation of the 100-year floodplain (when applicable).
- 6.16 **HUD Approval**  
The City will have received from HUD written authorization satisfactory to the City to fund the Loan to Borrower for development of the Property, including but not limited to, HUD's unconditional commitment of HOME Program funds in an amount not less than the Loan.
- 6.17 **Other Items and Documents**  
Borrower will provide the City with such other items and documents relevant to the Loan as the City may require.
- 6.18 **Lead-Based Paint**  
Borrower (at its sole cost and expense) will provide the City with satisfactory evidence that all residential units in the Project will be in compliance with the

regulations implemented under the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §§ 4821-4846, as set forth at 24 CFR Part 35.

**6.19 Environmental Report**

Borrower (at its sole cost and expense) will provide the City with a satisfactory Phase I Environmental Assessment prepared by a firm acceptable to the City. If the Environmental Assessment reflects the existence of environmental hazards at the Property, Borrower will provide the City with a plan for removing any hazards prior to the completion of the Project. Any such plan will be approved by the City in its reasonable discretion prior to execution of the plan.

**6.20 Architectural Barriers**

Borrower will provide the City with satisfactory evidence that the development of the Project will be carried out in compliance with the Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157) and 24 CFR § 570.614, as applicable.

**7 REPRESENTATIONS, WARRANTIES, AND COVENANTS REGARDING CONSTRUCTION, DEVELOPMENT, OPERATION, AND USE OF PROPERTY**

To induce the City to make the Loan, Borrower represents, warrants, and covenants to the City as follows:

**7.1 Scope of Development**

Borrower will develop 16 units of rental housing. Six (6) will be market rate units and the following HOME and HOME-ARP assisted units will be occupied as follows:

<b>HOME Assisted Units</b>	<b>Unit Type</b>	<b>AMI Requirement</b>	<b>Fixed or Floating Units?</b>
1	2 Bedroom	60%	Floating Units
1	3 Bedroom	60%	Floating Units

<b>HOME-ARP Assisted Units</b>	<b>Unit Type</b>	<b>Qualifying Population</b>	<b>Fixed or Floating Units?</b>
4	2 Bedroom	QP	Floating Units
4	3 Bedroom	QP	Floating Units

The residential units at the Property will, at a minimum, meet and be in conformance with all building, electrical, plumbing, and other local codes, construction standards, environmental regulations, zoning, and other ordinances for the City of Yuma.

## 7.2 Plans and Specifications

Prior to commencing any work on the Project, Borrower will provide the City with current copies of the Plans for the Project, which will be subject to the City's reasonable review, solely for the purpose of ascertaining compliance with the provisions of this Agreement, and written approval, signifying only compliance with the provisions of this Agreement. The City agrees not to unduly delay its review of the Plans. The Plans will, in any event, be deemed approved by the City unless within 30 calendar days after the date of City's receipt of the Plans, the City rejects the Plans, in whole or in part, in writing. Upon the City's approval of the current Plans, Borrower will assign its rights in the Plans to the City with an assignment in the form of the Plans Assignment.

## 7.3 Changes to Plans

Any material changes which Borrower desires to make to the Plans must be submitted to the City for its review and written approval. The City agrees not to unduly delay its review of the Plans and will approve in accordance with *Section 7.2* in this Agreement.

## 7.4 Permits

Prior to commencing any work on the Project which requires permits from the City or any other governmental or other regulatory agency which has authority or jurisdiction over the Property or the Project, Borrower will provide the City with evidence satisfactory to the City that Borrower has secured, or caused to be secured, any and all such permits.

## 7.5 Construction Contracts and Bids

Prior to the City's issuance to Borrower of a notice to proceed with construction, Borrower will provide the City with copies of all contracts for architectural, engineering, construction, and other services relating to the Project.

## 7.6 Construction Quality

Borrower will cause all work on the Project to be performed and installed with labor and materials of at least the quality normally used by builders of good reputation in similar projects in the Yuma County, Arizona area, and in a good and workmanlike manner, in substantial accordance with the Plans (except for deviations approved in writing by all appropriate governmental authorities and by the City).

## 7.7 Cost of Development

Except as otherwise expressly provided in this Agreement, the cost of constructing the Property will be borne by Borrower.

## 7.8 Schedule of Performance

### 7.8.1 Complete on schedule

Borrower will begin and complete work on the Project within the times specified therefor in the Schedule of Performance or within such reasonable extensions thereof as may be granted by the City. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between Borrower and the City.

### 7.8.2 Progress Report

During periods of work on the Project, Borrower will submit to the City a written report of the progress of the Project when and as requested by the City. The report will be in such form and detail as may be reasonably required by the City and will include a reasonable number of photographs (if any) taken since the last report by Borrower.

### 7.8.3 Progress after completion of construction; occupancy

Borrower must ensure that the requirements of CPD-21-10, 24 CFR §§ 92.252, and 253 are met. Borrower will aim to achieve full initial occupancy of the HOME units (as defined below) by bona fide and qualified tenants within 6 months of the Certificate of Occupancy, and, if unsuccessful, Borrower will immediately submit marketing information to the City and, if required, prepare within 1 month a marketing plan satisfactory to the City. Borrower must ensure that the Project achieves full initial occupancy of the HOME units by bona fide and qualified tenants within 12 months of the Certificate of Occupancy, and failure to do so is a material breach of this Agreement and Borrower will repay to the City all funds distributed by the City to Borrower under this Agreement; further, the notice and cure provisions of *Section 8.1* do not apply to breach of this section, wherein time is of the essence.

## 7.9 Risk Management

### 7.9.1 Indemnification

Borrower agrees to indemnify, defend, save and hold harmless the City, any jurisdiction or agency issuing permits for any work included in the Project, and their respective directors, officers, officials, agents, employees and volunteers (hereinafter referred to as "Indemnitee") from and against actual claims, demands, actions, liabilities, damages, losses, or expenses (including court costs, reasonable attorney's fees, and costs of claim processing, investigation and litigation) (hereinafter collectively referred to as "Claims") for personal injury (including death) or property damage

caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Borrower or any of Borrower's directors, members, officers, agents, employees, volunteers, General Contractor or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Borrower to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Borrower from and against any and all Claims. It is agreed that Borrower will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. THIS PROVISION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

#### 7.9.2 Insurance policies

Borrower will furnish, or cause to be furnished, to the City duplicate originals or appropriate certificates and endorsements of bodily injury and property damage insurance policies to protect against loss from liability imposed by law for damages on account of property damage or personal injury, including death therefrom, suffered or alleged to be suffered by any person resulting directly or indirectly from any act or activities of the City or Borrower relating to the development required under this Agreement in the amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregate limit for public liability and property damage, with the City of Yuma as an additional insured. All policies, except for Professional Liability, including Workers' Compensation, waive right of recovery (subrogation) against the City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by the Borrower under this Agreement. The insurance policy will specifically provide that it is primary, and noncontributory, coverage and that coverage will not be reduced or canceled during the term of this Agreement until after 30 days prior written notice of cancellation or reduction has been served upon the City in the manner provided in *Section 9.7* hereof. Notwithstanding the foregoing, in accordance with A.R.S. § 44-1208 Borrower shall not be required to obtain property insurance coverage in any amount greater than the replacement cost of the improvements on the Property.

### 7.9.3 Contractor insurance – Builder’s Risk

Borrower will require the General Contractor or Borrower to obtain adequate builder’s all-risk, fire and general liability insurance coverage, from an insurance company and in amounts satisfactory to Borrower and City, to ensure the completion of the development and to prevent the City or Borrower from incurring any liability for claims arising from the development of the Property pursuant to this Agreement. Said insurance will be in addition to, and will not take the place of, the coverage and indemnification pursuant to *Sections 7.9.1 and 7.9.2* hereof. Borrower will obtain and furnish the City with verification that insurance pursuant to this *Section 7.9.3* has been obtained by the General Contractor prior to the commencement of development of the Property. Such insurance shall include endorsements: (1) naming the City as additional insured, (2) shall be primary with a waiver of subrogation, and (3) shall include a 30-day advance notice to the City of cancellation.

### 7.9.4 Insurance per schedule

Borrower will obtain and maintain at all times during the term of the Loan, insurance policies of the nature and in the amounts specified in *Attachment No. 10* entitled Insurance Specifications.

### 7.9.5 Reserve for Replacements

On the first day of each calendar month commencing after the permanent financing for the Project closing, Borrower shall fund a Reserve for Replacements in an amount equal to \$350 per unit per year, increasing by 3% per year, for each and every unit, for the term of the Loan. The annual amount of contributions to the Reserve for Replacements shall be funded in 12 equal monthly payments, provided that the Borrower shall increase the minimum funding of the Reserve for Replacements if necessary to comply with sound asset management principles. The Borrower may make withdrawals from the Reserve For Replacements solely for the purpose of paying the cost of capital items, which shall consist of the acquisition or replacement of property expected to have a useful life of 5 years or more and the cost of repairs to property that will extend the useful life of such property by 5 years or more. Notwithstanding anything to the contrary contained herein, Borrower may satisfy this requirement by funding the Replacement Reserve required by Permanent Lender, if applicable, during the amortization of the loan by the Permanent Lender. Upon full amortization of the loan by the Permanent Lender, any Reserve for Replacements balance shall be held in a separate account by Borrower for the remainder of the Loan term.

#### 7.9.6 Casualty and Condemnation

Notwithstanding any statement in the Loan Documents to the contrary (other than *Section 10* of the Deed of Trust, which prevails over this *Section 7.9.6*), the City and Borrower agree that if the Property, or any portion thereof or any improvement thereon, is damaged, destroyed or condemned, or acquired for public use, that the insurance proceeds or proceeds of any such condemnation or acquisition will be assigned in full and paid to the Borrower, who shall cause such proceeds to be used to repair and restore same to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter operate the Property in accordance with the terms of the Loan Documents. If repair or restoration of the Property is not practicable, Borrower shall not be obligated to repair or restore the Property, and an award of damages under this Section up to the amount of the unpaid principal and accrued interest of the Loan described in the Loan Documents shall, subject to the rights of any senior Lender, be paid to the City and any remaining balance shall be paid to Borrower. The City shall be a party to any agreement relating to the use of condemnation proceeds or insurance proceeds from damage to the Property to repair and restore the Property.

#### 7.10 Local, State and Federal Laws

Borrower will develop, operate and use the Property and the Project in strict compliance with all applicable laws and regulations, including, if applicable, the following: all federal and state labor standards; the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 327-332; the Americans With Disabilities Act, 42 U.S.C. § 12101 et seq.; Drug Free Workplace Act, 41 U.S.C § 701; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 700 et seq.; 24 CFR § 92.354; HUD Handbook 1344.1; and all laws relating to health and safety and the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Water Act, 33 U.S.C. § 1251; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Resource Conservation and Recovery Act; the Occupational Safety and Health Act; the Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4157); and any similar or implementing state law or regulations, including but not limited to A.R.S. § 49-201 et seq. Borrower will indemnify and hold harmless the City from and against any and all claims, demands, causes of action, proceedings, liability, loss, damage, costs and expenses (including reasonable attorneys' fees and court costs) arising from or as a result of Borrower's failure to strictly comply with such laws or regulations.

## 7.11 Equal Employment Opportunity

### 7.11.1 Borrower compliance

Borrower will comply with all applicable local, state, and federal fair employment laws and regulations.

## 7.12 Responsibilities of the City

The City, without expense to Borrower or assessment or claim against the Property (except as provided herein), will perform all City actions specified herein within the times specified in the Schedule of Performance. If no time is specified, the City shall perform all actions herein required within a reasonable time.

## 7.13 Taxes, Assessments, Encumbrances and Liens

### 7.13.1 Pay taxes

Borrower will pay or cause to be paid when due all real estate taxes and assessments on the Property. Borrower will not place or allow to be placed on the Property, or on any portion of the Property, any mortgage, deed of trust, encumbrance or lien not authorized by this Agreement.

### 7.13.2 Unencumber

In the event that any liens or encumbrances (except the lien for real property taxes not yet due and liens and encumbrances reflected in the title insurance policy approved by the City with the Closing of the Loan) are filed against the Property or the Project, within 30 days of the date that Borrower or the City receives notice of the same, whichever occurs first, Borrower will have all liens released or bonded-over in a manner acceptable to the City. Borrower may contest in good faith the validity or amount of any such lien or encumbrance by appropriate proceedings provided by law, including payment thereof under protest, if required, upon furnishing to the City a cash deposit or other security in an amount and in form satisfactory to the City, which deposit or other security will be returned to the party depositing the same upon final payment by Borrower of said lien or encumbrance; provided, however, that upon final determination with respect to any such contested lien or encumbrance, Borrower will promptly pay any sums found to be due by it thereon.

## 7.14 Right of the City to Satisfy Liens on the Property

Upon prior written notice to Borrower, the City will have the right but not the obligation to satisfy any liens or encumbrances on the Property or any portion of the Property which have not been approved by the City in accordance with this Agreement, if Borrower has had a reasonable time to challenge, cure or satisfy

those liens or encumbrances. In such event, the City will be entitled to elect (i) reimbursement from Borrower of all costs and expenses in curing or satisfying such lien or encumbrance or (ii) to add such costs and expenses to the outstanding principal balance of the Loan, which will be secured by the Deed of Trust. The City will also be entitled to a lien upon the Property, or portion thereof, to the extent of such unreimbursed costs and disbursements. Notwithstanding the foregoing, nothing in this Agreement requires Borrower to pay or make provision for the payment of any tax, assessment, lien or charge so long as Borrower in good faith contests the validity or amount thereof, and so long as such delay in payment will not subject the Property or such portion of the Property to forfeiture or sale. The City, in its reasonable discretion, may release any abatement liens it possesses on the Property.

## 7.15 Uses

### 7.15.1 Period of Affordability

Borrower covenants and agrees that for a period of time commencing on the date the Declaration is executed by Borrower and expiring 20 years from the completion date in the Certificate of Completion (as defined in *Section 7.31* hereof) (the "Period of Affordability"), Borrower and such of its successors and assigns as the City approves in writing, will use the HOME units (as defined in *Section 7.21* hereof) solely to provide affordable housing to low-income individuals and families, and the HOME-ARP units, solely to provide housing to qualified persons and otherwise comply with the requirements of the HOME and HOME-ARP Program and the provisions of this *Section 7.15*.

## 7.16 Maintenance of the Property and Inspection for Compliance

### 7.16.1 Maintenance

Borrower will maintain the Property in accordance with all applicable City of Yuma building, plumbing and electrical codes, construction standards, environmental regulations, and the neighborhood preservation ordinance, zoning ordinance, and other ordinances. Borrower also will cause the Property to be kept free from any accumulation of debris or waste materials.

### 7.16.1 Create Housing Quality

On or before each anniversary of the date of the Certificate of Completion, Borrower will provide the City or its representative with a reasonable right of access to the Property, subject to the rights of the existing tenants and the records relating thereto, to permit the City to determine if the Property

satisfies all applicable City of Yuma codes and HUD HOME program Housing Quality Standards, as may be amended.

#### 7.16.2 Determination in Writing

Within 30 days of the inspection, the City will determine if the Property satisfies the housing standards for the City of Yuma. Any such determination will be set forth in writing and, in the event the City determines that the Property is not in compliance with standard, such writing will set forth the basis of that determination and the cure period.

#### 7.16.3 Deemed Determination

Notwithstanding the foregoing, any failure of the City to issue such determination within the 15-business day period will be deemed that the Property satisfies all applicable local building, plumbing and electrical codes, construction standards, environmental regulations, zoning ordinances, and all other City of Yuma ordinances.

### 7.17 Obligation to Refrain from Discrimination

There will be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, sex (including gender identity and sexual orientation), national origin, familial status, or disability in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, and Borrower (itself or any person claiming under or through Borrower) will not establish or permit any such practice or practices of discrimination, or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees thereof or any portion thereof. The Property will be used exclusively by the owner for secular purposes, available to all persons regardless of religion, and there will be no religious or membership criteria for tenants of the Property.

### 7.18 Other Equal Opportunity and Fair Housing Requirements

Borrower will operate the Property and the Project in compliance with the provisions of 24 CFR §§ 92.350 and 92.354, and the requirements of the Fair Housing Act (42 U.S.C. §§ 3601-3620), Executive Order 11063 as amended by Executive Order 12259, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), the prohibitions against age discrimination under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107) and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), Executive Order 11246, as amended by Executive Order 11375, 11478, 12086 and 12107, and supplemented by 41 CFR Part 60, SECTION 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u) ("SECTION 3"), Executive Orders 11625, 12007, 12432 and 12138, as amended by Executive Order

12608, and all regulations now or hereafter implementing those Acts or Executive Orders.

#### 7.19 Tenant Selection – HOME

Prior to leasing any HOME or HOME-ARP unit at the Property, Borrower will adopt written tenant selection policies and criteria (“Tenant Selection Policies”) consistent with 24 CFR § 92.253(d), and approved in writing by the City, that: (a) are consistent with the purpose of providing affordable housing for low income families under the HOME and HOME ARP Program and the applicant’s ability to perform the obligations of the lease; (b) are reasonably related to eligibility under the HOME or as applicable, HOME-ARP Program; (c) give reasonable consideration to the housing needs of persons that would have a preference under 24 CFR Part 5, Subpart D; and (d) provide for (1) the selection of tenants from written waiting lists in the chronological order of their application, insofar as is practicable, and (2) the prompt written notification to any rejected applicant of the grounds of any rejection. Borrower will implement the approved Tenant Selection Policies in connection with all prospective tenants of HOME and HOME-ARP units at the Property.

#### 7.20 Leases

The terms of all leases utilized by Borrower to lease HOME or HOME-ARP units at the Property and any termination of such lease will comply with 24 CFR § 92.253 and the provisions of *Section 7.21* hereof and all applicable laws. All leases will include the HUD Violence Against Women’s Act (VAWA) Lease Addendum per 24 CFR § 92.359 (e). The City will approve the form and substance of any such lease, which will not be amended or supplemented without the City’s prior written consent (such consent not to be unreasonably withheld or delayed).

#### 7.21 Income Targeting

##### 7.21.1 HOME Units

During the Period of Affordability, two (2) rental units at the Property will be designated as HOME units, with the following unit characteristics: one (1) two-bedroom units with 800 square feet; and one (1) three-bedroom units with 1,000 square feet. All of the HOME units will be occupied by households whose income does not exceed 60% of area median income, adjusted for household size. The HOME units are designated as floating HOME units pursuant to 24 CFR 92.252(j).

## 7.22 Rent Limitation & Utility Allowance

### 7.22.1 During Period of Affordability

During the Period of Affordability, the rent, including tenant-paid utilities, charged for the units will not exceed the lesser of the High-HOME rent or fair market rent as published by HUD. The rent charged for the units will not exceed the lesser of: (i) 30% or 50% of the Area Median Income; or (ii) the fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111; or (iii) the City of Yuma published rents, less the monthly allowance for utilities and services (excluding telephone) to be paid by the tenant. This utility allowance is set annually by the City in accordance with 24 CFR § 92.252(d). During the Period of Affordability, the initial rents and any increase in rents for the HOME and HOME-ARP Units will be subject to the prior written approval of the City.

### 7.22.2 Family definition

For purposes of this Agreement, the terms “family” and “families” have the same meaning given those terms in 24 CFR § 5.403.

### 7.22.3 SECTION 8 nondiscrimination

The HOME Units may not be refused for leasing to a holder of a certificate or voucher under 24 CFR Part 982 or to the holder of a comparable document evidencing participation in a SECTION 8 tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate or voucher, or comparable SECTION 8 tenant-based assistance document.

## 7.23 Annual Review of Rents and Income Verification

Borrower will re-examine household income, composition, and rents for the HOME and HOME-ARP Units annually in accordance with 24 CFR Part 5, Subpart F and 24 CFR § 92.252. For the purposes of this Agreement, a household’s income will be determined in accordance with 24 CFR § 5.609. Rents proposed by Borrower for HOME and HOME-ARP Units must be approved in writing by the City before taking effect.

## 7.24 Affirmative Marketing and Occupancy Verification

Borrower will comply with the affirmative marketing procedures and requirements adopted by the City pursuant to the HOME Program for all HOME and HOME-ARP Units at the Property, and as outlined in the Affirmative Marketing Monitoring and Occupancy Verification Report attached as *Attachment No. 11* (the “Monitoring Report”), which Borrower will prepare and submit to the City annually beginning on the date 6 months after the certificate of occupancy and every 12 months thereafter during the Period of Affordability.

## 7.25 Recordkeeping

### 7.25.1 Records separate

THIS *SECTION 7.25.1* WILL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT. Borrower will keep separate records and accounts of its activities relating to the development and maintenance of the HOME and HOME-ARP Units at the Property and compliance with the requirements of this Agreement and the HOME Program per 24 CFR 92.508. These records will include evidence of:

- A. Program records;
- B. Project records;
- C. CHDO records;
- D. Financial records;
- E. Program administration records; and
- F. Records concerning other Federal requirements.

### 7.25.2 Record inspection

On or before each anniversary of the recording of the Certificate of Completion, Borrower will provide the City or its representative with a reasonable right of access to the Property, subject to the rights of the existing tenants, to the records required by *Section 7.25* hereof, and to the records referred to in *Section 7.26* hereof, to permit the City to determine if such records satisfy the requirements of *Section 7.25.1* and the postings required by the Monitoring Report.

### 7.25.3 Determination in writing

Within 15 business days of such inspection, the City will determine if the Property conditions satisfy the requirements of *Section 4.3.8*. Any such determination will be set forth in writing and, in the event the City determines that the Property conditions are not in compliance with *Section 4.3.8*, such writing will set forth the basis of that determination.

### 7.25.4 Deemed determination

Notwithstanding the foregoing, however, any failure of the City to issue such determination within the 15 business day period will be deemed to be a determination by the City that Borrower's records comply with *Section 7.25.1* and the postings on the Project comply with the Monitoring Report.

## 7.26 Other Rights of Access

Representatives of the City, HUD, the Comptroller General of the United States, and the Government Accounting Office, or any of their representatives will have a reasonable right of access to the Property (upon reasonable written notice and subject to the rights of the tenants in residence under their respective leases) and all books, documents, papers and records of Borrower, , which are pertinent to any activity performed under this Agreement (without charges or fees), for the purpose of monitoring Borrower’s operation of the Property and the Project under this Agreement, obtaining adequate information to determine the financial condition and continued financial viability of the Project, and auditing, examining and taking excerpts and transcriptions.

## 7.27 Annual Reports and Inspection

### 7.27.1 Annual Report

On or before August 1<sup>st</sup> of each year, Borrower will submit the following items:

A. An annual report and financial statement for the HOME and HOME-ARP Units and the Property (the “Annual Report”) to the City prepared by an independent certified public accountant or other person, who in either case has been approved by the City in writing (the “Auditor”). The Annual Report will include adequate information for the City to determine the financial condition and continued financial viability of the Project, the designated unit numbers of the HOME and HOME-ARP Units, data evidencing the income of each person who resides in the Units during the period from July 1<sup>st</sup> through June 30<sup>th</sup> of each year, an operating statement reflecting income and expenses for the reporting period for the Property, a certification by the Auditor that the annual income of all tenants occupying the Units during the reporting period satisfies the requirements of 24 CFR Part 5, Subpart F, and this Agreement, and otherwise be such in form and substance as is acceptable to the City.

B. An Annual Project Cash Flow Analysis Report prepared by Borrower and Certified by the Auditor as outlined in *Section 3.1.4*. The Annual Project Cash Flow Analysis Report must include a complete report of all cash flow, including but not limited, to all information that is required for the parties to determine the amount of Surplus Cash, a report of all Loan advances, all interest accrued on the Loan, and all payments to other lenders or to Borrower.

C. Affirmative Marketing and Occupancy Verification as outlined in *Section 7.24*. Within 30 days after receipt of the Annual Report, the City will approve or disapprove the operation of the Property as reflected in the Annual Report. Any such approval or disapproval will be set forth in writing and in the event the City disapproves of the operation of the Property as reflected in an Annual Report, such writing will set forth the basis of that determination and the cure period. Notwithstanding the foregoing, however, any failure by the City to approve or disapprove the operation of the Property within the 30-day period (whether in writing or otherwise), may not be deemed to be a waiver of the City's right to approve or disapprove the operation thereof as reflected in the Annual Report.

#### 7.27.2 Unit inspection; Period of Affordability

During the Period of Affordability, the City will be entitled to inspect the HOME and HOME-ARP Units and the Property, on an annual basis, for compliance with the terms of this Agreement, including, but not limited to, compliance with the Yuma County HOME Consortium's Housing Property Standards. The City will give Borrower not less than 72 hours prior notice of such inspections, and Borrower will provide the tenants of the Property such prior written notice as is required by the Arizona Residential Landlord Tenant Act (A.R.S. § 33-1301 et seq.).

### 7.28 Compliance with HUD and OMB Regulations

#### 7.28.1 Borrower to provide HUD compliance evidence

Borrower will provide the City upon request with evidence satisfactory to the City that it is in compliance with all applicable HOME Program and all other applicable Federal regulations.

#### 7.28.2 Borrower to provide procurement compliance evidence

Borrower will provide the City upon request with evidence satisfactory to the City that it is in compliance with OMB Guidelines on Government-wide Debarment and Suspension (Non-procurement). As a condition of participating in the Agreement and the transactions contemplated hereby, Borrower must comply with the requirements of subpart C of the OMB guidance in 2 CFR part 180, as supplemented by 2 CFR part 2424, and must require each person with whom Borrower enters into a covered transaction as defined by said regulations to comply with the regulations.

### 7.29 Legal Worker Requirements

If Borrower is an employer, or if, while the Loan is outstanding, Borrower becomes an employer, as that term is defined in A.R.S. § 23-211(4) or any successor statute,

Borrower must comply with A.R.S. § 23-214.B; and if Borrower is not an employer, then Borrower must certify that status to the City in a sworn declaration in the form of *Attachment No. 12* (“Borrower Certification”). A.R.S. § 23-214.B reads:

“In addition to any other requirement for an employer to receive an economic development incentive from a government entity, the employer shall register with and participate in the e-verify program. Before receiving the economic development incentive, the employer shall provide proof to the government entity that the employer is registered with and is participating in the e-verify program. If the government entity determines that the employer is not complying with this subsection, the government entity shall notify the employer by certified mail of the government entity’s determination of noncompliance and the employer’s right to appeal the determination. On a final determination of noncompliance, the employer shall repay all monies received as an economic development incentive to the government entity within thirty days of the final determination.”

#### 7.30 Relocation Requirements

In the event it becomes necessary to relocate residents of the Property, either temporarily or permanently, due to the development of the Property, such relocation will be carried out in compliance with 24 CFR § 92.353 and all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4201-4655).

#### 7.31 Certificate of Completion

##### 7.31.1 Completion of construction to be memorialized by Certificate

After completion of the construction of the Property by Borrower in accordance with the Scope of Construction and the Specifications, Borrower shall request that the City issue a certificate of completion. The City, upon determining in its reasonable discretion that the Project has been substantially completed, shall furnish Borrower with a certificate of completion (the “Certificate of Completion”). The Certificate of Completion shall be, and shall state that it constitutes, a conclusive determination of satisfactory completion of the Project as required by this Agreement. The Certificate of Completion shall be in the form of *Attachment No. 13*.

##### 7.31.2 No Certificate of Completion

If the City refuses or fails to furnish the Certificate of Completion after a written request therefor by any entity entitled thereto pursuant to this *Section 7.31*, the City will, after such written request, provide the

requesting party with a written statement of the reasons why the City refuses or fails to furnish such Certificate of Completion. The statement will also contain the City's opinion of the action that must be taken to obtain such Certificate of Completion.

#### 7.31.3 Not evidence of compliance

The Certificate of Completion will not constitute evidence of compliance with or satisfaction of any obligation of Borrower to any other person or entity. The parties' duties pursuant to this Agreement extend beyond the date of the Certificate of Completion.

### 7.32 Training, Employment and Contracting Opportunities for Businesses and Lower Income Persons

#### 7.32.1 SECTION 3 applicable

The Project is assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the Project. This will also involve documenting all labor hours associated with the construction of the project.

#### 7.32.2 SECTION 3 plan

Notwithstanding any other provision of this Agreement, Borrower will carry out the provisions of SECTION 3 and the regulations issued by HUD as set forth in 24 CFR Part 75, and all applicable rules and orders of HUD issued thereunder prior to the execution of this Agreement. The requirements of the regulations include utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment and business opportunities required by SECTION 3; and incorporation of the "SECTION 3 clause" specified by 24 CFR § 75.27 of the regulations in all contracts for work in connection with the Project. Borrower certifies and agrees that Borrower is under no contractual or other disability which would prevent compliance with these requirements.

### 7.32.3 Borrower compliance

Borrower agrees to be bound by the above SECTION 3 clause with respect to Borrower's own employment practices when participating in federal assisted work.

## 8 DEFAULTS AND REMEDIES

### 8.1 Defaults - General

#### 8.1.1 Events of Default

The existence or occurrence of any one or more of the following events, after any applicable notice and cure periods, will constitute an event of default (individually, an "Event of Default") under this Agreement and each of the Loan Documents:

##### 8.1.1.1 Failure to make available

Borrower's failure to make available for rental all of the HOME and HOME-ARP Units at the Property solely for the purpose of providing affordable housing to QP Individuals and Families, and other low income households pursuant to this Agreement during the required periods.

##### 8.1.1.2 Failure to perform

Borrower's failure to comply with or perform any covenant or obligation set forth in this Agreement, the Deed of Trust or any other Loan Document, including but not limited to, the restrictive covenants set forth in the Declaration, and such failure remains uncured for 30 days after written notice of such failure; provided, however, if Borrower diligently takes such action to cure the default, but cannot do so within such 30 day period, then Borrower shall notify the City of when Borrower expects the default to be cured and Borrower shall have an additional 60 days to cure the default.

##### 8.1.1.3 Breach of any material representation or warranty

The breach of any material representation or warranty set forth in this Agreement or any other Loan Document, or the existence of any material misrepresentation of fact by Borrower in any document submitted to the City in support of the Loan or in connection with any of the Loan Documents and remain uncured for 30 days after written notice thereof.

#### 8.1.1.4 Failure of insurance

Borrower's failure to obtain and maintain the insurance required under this Agreement and the other Loan Documents, and such failure continues for a period of 10 days after written notice thereto.

#### 8.1.1.5 Failure of diligence

Following commencement of work on the Project and prior to issuance of the certificate of occupancy, the substantial and unscheduled discontinuance of work on the Project for a period of 30 consecutive days other than due to reasons of Force Majeure, unless Borrower demonstrates to the satisfaction of the City in its sole discretion that construction of the Project will be completed on or before the date set forth in the Schedule of Performance.

#### 8.1.1.6 Failure to cure

Borrower's failure to cure promptly any violation of any law or regulation resulting from or related to the Property or work on the Project or any portion of the Project; or Borrower's failure to comply promptly with any provision of any notice, issued by or filed in any department of any governmental authority having jurisdiction over Borrower, the Property or the Project, of any requirement or any law or regulation having any effect on or relation to the Property or the Project; or Borrower's failure to furnish to the City, immediately and without demand, a true copy of any notice or other document received by or available to Borrower disclosing any such requirement or violation of any such law or regulation, or otherwise bearing upon the compliance of the Property or the Project with any applicable law or regulation. In this regard, "promptly" means within 30 days, then the commencement of action to cure or comply with the same 30 days and the diligent prosecution to completion.

#### 8.1.1.7 Cross default

A default by Borrower on any other obligation it may have to the City.

#### 8.1.1.8 Assignment

The making by Borrower or any other person or entity that is or may become liable hereunder of an assignment for the benefit of its creditors.

#### 8.1.1.9 Receiver appointment

The appointment of (or application for appointment of) a receiver of Borrower or any other person or entity who is or may become liable hereunder, or the voluntary filing by Borrower, or any other person or entity who is or may become liable hereunder, of a petition or application for relief under federal bankruptcy law or any similar state or federal law, or involuntary filing (not dismissed within 60 days thereof) against Borrower, or any other person or entity who is or may become liable hereunder, of a petition or application for relief under federal bankruptcy law or any similar state or federal law, or the issuance of any writ of garnishment, execution or attachment for service with respect to Borrower or any person or entity who is or may become liable hereunder, or any property of Borrower or property of any person or entity who is or may become liable hereunder.

#### 8.1.2 Material adverse change

The occurrence of any material adverse change in the condition (financial or otherwise) of Borrower or any person or entity that is or may become liable hereunder.

##### 8.1.2.1 Transfer without consent

Borrower transfers any right or obligation under this Agreement without the City's prior written consent.

##### 8.1.2.2 Undisputed legitimate concern

The City shall have given Notice that in good faith it reasonably deems itself insecure or believes that the prospect for performance is impaired, supported by specific allegations of fact, that are not rebutted by Borrower with substantial contrary evidence within 10 days.

##### 8.1.2.3 Impairment

The occurrence of any event (including, without limitation, a change in the financial condition, business, or operations of Borrower) that materially and adversely affects the ability of Borrower to perform any of its obligations herein under the Loan Documents.

##### 8.1.2.4 Encumbrance

Borrower's failure to maintain good and marketable fee simple title to the Property free and clear of all liens, charges, claims,

encumbrances, and other matters (other than statutory encumbrances for work being performed on the Property, and for which the Borrower has posted payment and performance bonds), except for the Permitted Encumbrances.

## 8.2 Remedies

### 8.2.1 Effect of default

Upon the occurrence of any Event of Default, the entire principal balance of the Loan and any other amounts owed to the City under this Agreement or the other Loan Documents will become immediately due and payable without notice, and the City will have the right, but not the obligation, to withhold any disbursement of Loan, enforce the restrictive covenants in the Declaration, foreclose the Deed of Trust, exercise all rights and remedies to enforce the security interest granted in the Deed of Trust under the Arizona Uniform Commercial Code, and enforce all its other rights and remedies under the Loan Documents and/or available to it at law or in equity.

### 8.2.2 Protective Advances

Upon the occurrence of an Event of Default, the City may in its sole discretion make such payments and do such acts as the City may deem necessary to protect its security interest in the Loan including, without limitation, paying, purchasing, contesting, or compromising any lien or encumbrance, whether superior or inferior to such security interest and in exercising any such powers or authority to pay all expenses (including, without limitation, litigation costs and reasonable attorneys' fees) incurred in connection therewith (the "Protective Advances"), and add the amounts of the Protective Advances paid by the City to the principal balance of the Note.

### 8.2.3 Applicable Rate

Notwithstanding the foregoing, upon the occurrence of any Event of Default, the City will have the right, but not the obligation, to increase the interest rate applicable to the Loan to 11% per annum, retroactive to the initial date of noncompliance, which rate shall continue in effect until Borrower shall have established that it is in compliance with such covenants to the City's reasonable satisfaction.

## 8.3 Attorneys' Fees and Costs

If any legal action is instituted pursuant to this Agreement or any of the Loan Documents, the prevailing party in such action will be reimbursed by the other

party for all costs and expenses of such action, including reasonable attorneys' fees as may be fixed by the Court.

#### 8.4 Acceptance of Legal Process

##### 8.4.1 Service on City

In the event that any legal action is commenced by Borrower against the City, service of process on the City will be made by personal service upon the City Clerk of the City of Yuma, or in such other manner as may be provided by law.

##### 8.4.2 Service on Borrower

In the event that any legal action is commenced by the City against Borrower, service of process will be made by personal service or in such other manner as may be provided by law, whether made with or without the State of Arizona.

#### 8.5 Rights and Remedies are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by the City of one or more of its rights or remedies will not preclude the exercise by it, at the same time or any different time, of any other rights or remedies for the same Event of Default of any other Event of Default.

### 9 GENERAL PROVISIONS

#### 9.1 Laws and Regulations

Borrower shall comply with the Americans with Disabilities Act (ADA) and shall indemnify City for any costs, including but not limited to, damages, attorney's fees, and staff time in any action or proceeding brought alleging violation of the ADA. Borrower shall not discriminate against any person on the basis of race, religion, color, age, sex, or national origin in the performance of this Agreement, and must comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354 (1964) and State Executive Order No. 2009-09. The Borrower shall not participate in or cooperate with an international boycott, as defined in Section 999(b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Arizona state law. The Borrower shall include similar requirements of all sub-Borrowers in Agreements entered for performance of Borrower's obligations under this Agreement. Borrower shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Borrower is responsible abides by, and remains in compliance with, all rules, regulations, ordinances,

statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations; (B) existing and future State and Federal laws; and (C) existing and future Occupational Safety and Health Administration standards. Borrower shall comply with all federal, state, and local laws, regulations, and ordinances applicable to its performance under this Agreement.

## 9.2 Termination for Convenience

At any time prior to the initial disbursement of Loan, this Agreement and any undisbursed portion of the Loan may be terminated for convenience by the City or Borrower, in whole or in part. Notwithstanding the foregoing, if Borrower has the right to, and desires to, terminate this Agreement and any undisbursed portion of the Loan in part, the City will have the right to terminate the whole Agreement and the whole Loan in full if the City determines that the remaining portion of this Agreement and the Loan will not accomplish the purposes for which this Agreement and the Loan were made. Further, in the event of termination of this Agreement in whole or in part, if a party has received consideration for which performance has not been rendered, then at the option of the other party, the consideration must be returned or the performance rendered to the extent of the value of the consideration received.

## 9.3 Certification Regarding Debarment, etc.

By executing this Agreement, Borrower certifies to the City and HUD, and in addition agrees that in any proposal submitted to the City in connection with this Agreement Borrower will further certify to the City and HUD, that neither Borrower nor its principals or contractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction evidenced by this Agreement by any federal department or agency, and further agrees to comply with the requirements of 2 CFR Part 2424.

## 9.4 Other Laws, Rules, Regulations and Directives

Borrower, and any of its contractors, will comply with all other applicable federal, state or local laws, rules, regulations, orders and directives.

## 9.5 Representations and Warranties Regarding Use of Federal Funds

Borrower hereby represents and warrants the following to the City and to HUD in connection with acquisition of the Property and the Project:

### 9.5.1 No federal funds for lobbying

No federal appropriated funds have been paid or will be paid, by or on behalf of Borrower, to any person for influencing or attempting to

influence an officer or employee of any government agency, the City or Congress, or a member of Congress or employee of a member of Congress in connection with the execution of this Agreement or the making of the Loan hereunder.

#### 9.5.2 Lobbying disclosure

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any government agency, the City or Congress, or a member of Congress or employee of a member of Congress in connection with this Agreement or the making of the Loan, Borrower will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

#### 9.5.3 No external consideration

Borrower has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, and attorneys.

#### 9.5.4 Subaward compliance

If applicable, Borrower will require that the language in *Sections 9.5.1, 9.5.2, and 9.5.3* hereof be included in any award documents for all subaward tiers (including subcontracts, subgrants, loans, and cooperative agreements) and that any subrecipients will certify and disclose to the City and HUD accordingly.

### 9.6 Continuing Liability

Borrower will have continuing liability after the term of this Agreement for any breach of this Agreement, including the failure to perform in accordance with required federal law and the rules and regulations promulgated thereunder until and after all complaints, investigations, and sanctions, including those arising out of audits performed by the City, HUD or other authorized agencies are resolved. Borrower will be liable for any sanctions or requirements imposed at any time upon the City arising out of the activities performed by Borrower under this Agreement.

### 9.7 Notices, Demands and Communications between the Parties

#### 9.7.1 Notice proper

All notices, demands or other writings in this Agreement provided to be given, made or sent by any party to other parties will be deemed to have

been fully given, made, or sent when made in writing and hand-delivered or three days after being deposited in the United States mail, postage paid, registered or certified, and addressed as follows:

To City: City of Yuma  
Neighborhood Services Division  
One City Plaza  
Yuma, Arizona 85364  
Attn: Neighborhood Services Manager

With a copy to: City of Yuma  
Office of the City Attorney  
One City Plaza  
Yuma, Arizona 85364  
Attn: City Attorney

To Borrower: Arizona Housing Development  
Corporation/Magnolia Gardens  
420 S Madison Avenue  
Yuma, AZ 85364  
Attn: Luz Acosta, Development Officer

With a copy to: Arizona Housing Development  
Corporation/Magnolia Gardens  
420 S Madison Avenue  
Yuma, AZ 85364  
Attn: Fernando Quiroz, President

#### 9.7.2 Amendment

The address to which any notice, demand or other writing may be given, made, or sent to any party may be changed by written notice given by such party as provided above.

#### 9.7.3 General address

All other items required to be submitted to the City by Borrower will be delivered to the City Planning and Neighborhood Services Department at the above address.

## 9.8 Conflict of Interest

No member, official, employee, agent, consultant, or officer of the City will have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law. Borrower further will comply with the conflict-of-interest provisions set forth in 24 CFR § 92.356 and HUD CPD Notice 21-10 Section H. In addition, the parties hereto acknowledge that this Agreement is subject to cancellation pursuant to A.R.S. § 38-511.

No employee, agent, consultant, elected official, or appointed official of AHDC may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:

- A. Any interest in any contract, subcontract or agreement with respect to a HOME-assisted or HOME-ARP assisted project or program administered by the CHDO, or the proceeds thereunder; or
- B. Any unit benefits or financial assistance associated with HOME projects or programs administered by the CHDO, including occupancy of a rental housing unit in a HOME-assisted or HOME-ARP assisted rental project.

This prohibition does not apply to an employee or agent of the CHDO who occupies a HOME-assisted unit as the on-site project manager or maintenance worker.

In addition, no member of Congress of the United States, official or employee of HUD, or official or employee of the City shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted or HOME-ARP assisted project or program.

Prior to the implementation of the HOME-assisted activity, exceptions to these provisions may be requested by the CHDO in writing to the City and HUD. The CHDO must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME assistance. Forward the requests to HUD as permitted by 24 CFR 92.356, 85.36 and 84.42, as they apply with a copy to the City.

## 9.9 Non-liability of City Officials and Employees

No member, official, or employee of the City will be personally liable to Borrower, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Borrower or its successors, or on any obligation under the terms of this Agreement.

#### 9.10 Enforced Delay: Extension of Time of Performance

In addition to specific provisions of this Agreement, performance by any party will not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, injunction, unusually severe weather, inability (when either party is faultless) of any contractor, subcontractor or supplier, or acts of the other party. An extension of time for any such cause will only be for the lesser of the period of the enforced delay or 30 days. Times of performance under this Agreement may also be extended in writing by both parties.

#### 9.11 Plans and Data

If Borrower does not proceed with the Project, or if this Agreement is terminated with respect thereto for any reason, within 15 days of such termination, Borrower will deliver to the City any and all Plans and data concerning the Property or the Project which are the property of Borrower.

#### 9.12 Submission of Satisfactory Document or Evidence

Whenever this Agreement requires Borrower to submit satisfactory plans, drawings, evidence, proof, or documents to the City for approval, the City will have the right to determine if the plans, drawings, evidence, proof, or documents submitted are satisfactory in the City's reasonable discretion.

#### 9.13 Approvals by the City

Except for those matters within the sole discretion of the City, wherever this Agreement requires the City to approve any contract, documents, plan, proposal, specification, drawing or other matter, such approval will not be unreasonably withheld or delayed.

#### 9.14 Time of Essence

Time is of the essence of this Agreement and of every term, condition, and covenant hereof.

#### 9.15 No Waiver

Except as otherwise expressly provided in this Agreement, any delay or omission by any party in asserting any of its rights or remedies as to any default, will not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

#### 9.16 Survival

ALL OF THE REPRESENTATIONS, WARRANTIES, AND INDEMNITIES SET FORTH IN THIS AGREEMENT WILL SURVIVE THE CLOSING AND THE EXPIRATION OR TERMINATION OF THE LOAN.

#### 9.17 Severability

If any provision of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement will not be affected thereby and will be valid and enforceable to the fullest extent permitted by law.

#### 9.18 Captions

The captions contained in this Agreement are merely a reference and are not to be used to construe or limit the text.

#### 9.19 Governing Law

This Agreement is governed by the laws of the State of Arizona.

#### 9.20 Entire Agreement

This Agreement is executed in counterparts each of which is deemed to be an original. This Agreement includes the attachments identified herein, which constitute the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. The attachments to the agreement are as follows:

- Attachment No. 1: CHDO Certification and Requirements
- Attachment No. 2: Legal Description
- Attachment No. 3: Project Schedule
- Attachment No. 4: Site Map
- Attachment No. 5: Project Budget (Development Budget)
- Attachment No. 6: Scope of Development
- Attachment No. 7: Declaration of Affirmative Land Use Restrictive Covenants
- Attachment No. 8: Promissory Note
- Attachment No. 9: Deed of Trust
- Attachment No. 10: Insurance Specifications
- Attachment No. 11: Affirmative Marketing
- Attachment No. 12: Borrower's Certification
- Attachment No. 13: Certificate of Completion (including Exhibit A – Legal Description)

#### 9.21 Waivers and Amendments

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or Borrower, and no amendments will be effective unless in writing and signed by the appropriate authorities of the parties hereto.

#### 9.22 Term of this Agreement

Unless terminated in accordance with the express terms of this Agreement, the covenants of Borrower and other provisions of this Agreement pertaining to the HOME and HOME-ARP Program will remain in full force and effect from the date hereof until expiration of the Period of Affordability.

#### 9.23 Program Income and Reversion of Assets

Borrower may retain any Program Income (as defined in 24 CFR § 92.2), to be used to provide affordable housing pursuant to the terms of this Agreement or to provide other affordable housing for QP households and low income households, as required by 24 CFR §92.503 and §92.504. Borrower will transfer to the City all HOME and HOME-ARP funds in its possession upon termination or expiration of this Agreement.

#### 9.24 References to Applicable Laws, Regulations and Orders

All cites or references to statutes, regulations and orders include any amendments.

#### 9.25 Counterparts

This Agreement may be executed in several counterparts, all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the same counterpart.

[Signature page follows]



**CHDO Certification and Requirements**

WHEREAS, Arizona Housing Development Corporation (AHDC) has been certified by the City of Yuma (City), on behalf of the Yuma County HOME Consortium (YCHC) to meet the definition of a Community Housing Development Organization (CHDO) according to 24 CFR 92 Subpart G for the Magnolia Gardens Project on January 4, 2025, and

It is understood that AHDC will maintain CHDO status for the term of the Development Loan Agreement in accordance with 24 CFR 92. AHDC agrees to provide information to the City to document its continued compliance, including but not limited to an annual board roster and certification of continued compliance. Throughout the term of the agreement AHDC must submit any changes to the structure of the organization to the City for review and CHDO re-certification.

WHEREAS, the City received a proposal for use of CHDO set-aside funds for a CHDO-eligible project under HOME regulations, and

WHEREAS, AHDC as a certified CHDO is eligible to receive HOME funding from the CHDO set-aside of the YCHC HOME allocation for an eligible CHDO project,

WHEREAS, the CHDO certification application and documentation AHDC submitted and the City's approval are part of this Agreement,

THEREFORE, in addition to the responsibilities outlined previously in the Development Loan Agreement, AHDC agrees to comply with special CHDO requirements enumerated below.

**A. Project Description**

AHDC will undertake a Rental Development project with HOME funds from the City. AHDC will develop 16 rental units to be occupied by eligible, low income tenants. The schedule and budget for this project is outlined in Attachments 3 and 5 of the Agreement.

**B. CHDO role**

In accordance with 24 CFR 92.300(a)(3), **AHDC** will serve as developer of new housing that will be constructed and rented to income-eligible families per 24 CFR 92.252.

**AHDC** is the owner (in fee simple absolute) of said Housing, and will arrange financing for the project, and be in sole charge of construction.

**AHDC** must own the housing during the development and for a period at least equal to the period of affordability.

**AHDC** took the following steps to involve neighborhood residents and/or beneficiaries in the project design, siting and implementation:

1. Public Meeting on 06/13/2023
2. Public Meeting on 12/11/2023

**AHDC** will implement the Tenant Participation Plan in Appendix A of this attachment.

**C. Project Requirements**

**AHDC** agrees to follow the applicable HOME Program requirements of 24 CFR 92 Subpart F and Guidelines established by YCHC for administration of HOME-assisted programs including but not limited to requirements for income determination, underwriting and subsidy layering, rehabilitation/property standards, refinancing guidelines, rental development program policies.

**D. CHDO Proceeds**

AHDC must comply with CPD Notice 97-11 and 97-09 HUD on use of CHDO project proceeds.

**E. Other Provisions**

- a. It is understood that **AHDC** has certified that it is and will maintain CHDO status for the term of the Agreement in accordance with 24 CFR 92. **AHDC** agrees to provide information as may be requested by the City to document its continued compliance, including but not limited to an annual board roster and certification of continued compliance.

## Appendix A

TENANT PARTICIPATION PLAN  
MAGNOLIA GARDENS**1. Introduction**

The purpose of this Tenant Participation Plan (TPP) is to outline how tenants will be engaged in the planning, development, rehabilitation, and ongoing management of affordable housing projects funded by the U.S. Department of Housing and Urban Development (HUD). The plan ensures tenants' rights are respected and that they have an opportunity to participate meaningfully in decisions that affect their living conditions.

---

**2. Project Overview**

- **Project Name:** Magnolia Gardens
  - **Location:** 430, 440 S Magnolia Avenue, Yuma, AZ 85364
  - **Type of Project:** New Construction
  - **Funding Source:** HOME ARP, HOME-CHDO
  - **CHDO Name:** Arizona Housing Development Corporation
  - **Development Timeline:** February 2025 – December 2026 (Estimate)
- 

**3. Tenant Outreach and Engagement**

The CHDO will engage tenants and the surrounding community in the following ways:

- **Pre-Development Phase:**
  - Host informational meetings and community forums to share the scope of the project and provide updates as needed and reasonably possible.
  - Distribute surveys to gather tenant input on their housing needs and preferences as needed and reasonably possible.
- **Ongoing Communication:**
  - Establish an advisory committee or similar group to meet annually and provide feedback on the project's progress.
  - Provide tenants with written notices regarding significant changes in their living conditions (e.g., construction, relocation).
- **Post-Development Phase:**
  - Conduct exit interviews or surveys for tenants to evaluate their satisfaction with the completed project.
  - Ensure ongoing communication regarding maintenance, repairs, or any other project-related activities.

#### 4. Tenant Rights and Protections

This plan ensures that all tenants involved in the project will have their rights protected, in compliance with federal and state housing laws. Key protections include:

- **Non-Discrimination:** Tenants will be treated equally regardless of race, color, religion, sex, national origin, disability, or familial status.
  - **Right to Participate:** Tenants will be invited and encouraged to participate in meetings and decisions that affect their housing.
  - **Privacy and Confidentiality:** All tenant information will be kept confidential, in compliance with privacy laws.
- 

#### 5. Decision-Making Process

The tenant participation process will include:

- **Tenant Meetings:** Meetings will be scheduled at convenient times for tenants to attend. Meetings may include updates on the project, budget discussions, and feedback on design plans.
  - **Voting on Specific Issues:** For certain decisions, tenants may be asked to vote on aspects of the development (e.g., design features or common area use).
  - **Grievance Procedures:** A formal grievance procedure will be put in place to address any concerns or conflicts that arise related to the development.
- 

#### 6. Funding and Resources

The following resource will be made available to support tenant participation:

- **Interpretation Services:** If needed, translation services will be provided to ensure non-English speaking tenants can fully participate.
- 

#### 7. Conclusion

This Tenant Participation Plan will be an integral part of the CHDO's efforts to develop, maintain, and improve affordable housing. Active participation of tenants ensures the success of the project and the long-term sustainability of the community.

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**Legal Description**

A LOT TIE OF LOT 4, LOT 9, AND NORTH HALF OF LOTS 5 AND 8, BLOCK 27 OF TOWNSEND TRACT AS RECORDED IN BOOK 1 OF PLATS, PAGE 14, AND MODIFIED PER ROBLES LOT TIE AS RECORDED IN BOOK 16 OF PLATS, PAGE 66, YUMA COUNTY RECORDS. LOCATED IN A PORTION OF THE NORTHEAST CORNER OF THE SOUTHWEST CORNER OF SECTION 20, TOWNSHIP 8 SOUTH, RANGE 23 WEST GILA AND SALT RIVER BASE AND MERIDAN; CITY OF YUMA, YUMA COUNTY, ARIZONA

## Schedule of Performance

	<b>Performance Item</b>	<b>Performance Date</b>
1.	Execution of Agreement	April 18, 2025
2.	Closing of Escrow	April 18, 2025
3.	Conditions Precedent to Disbursement of Loan	April 25, 2025
4.	Commence Construction of Work on Project	April 21, 2025
5.	Construction of Project Completed	October 21, 2026
6.	First Project Cash Flow Analysis Report	October 1, 2026
7.	Marketing report/plan if initial occupancy of Project not full	January 1, 2027
8.	Required Full initial occupancy of HOME and HOME-ARP units	February 1, 2027

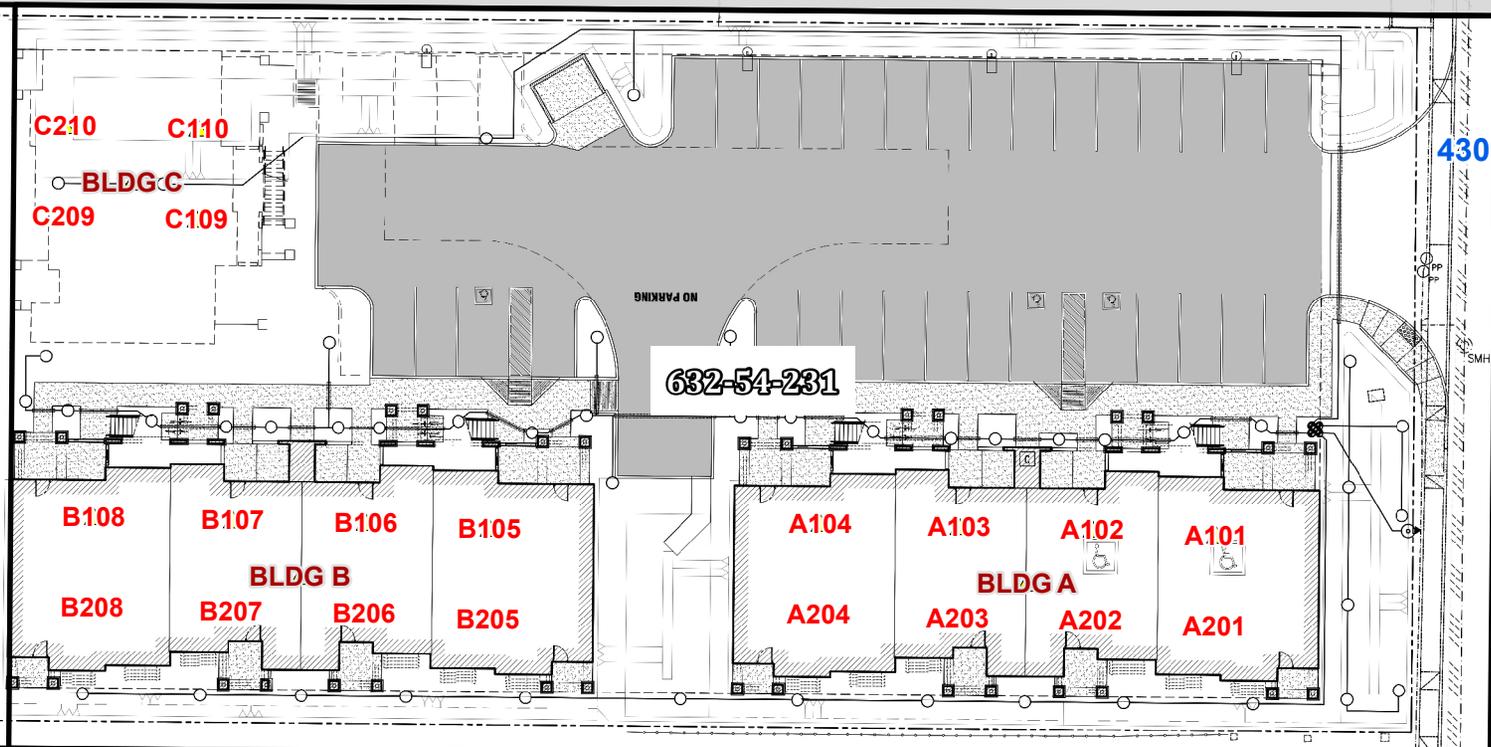
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632-54-034

632-54-036

632-54-037

632-54-179

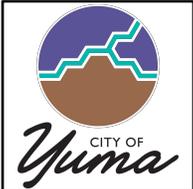


632-54-231

632-54-182

632-54-183

S MAGNOLIA AVE

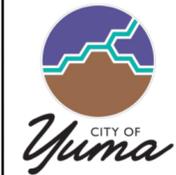


Prepared by:  
**DG**  
 Date:  
 4/25/2024

430 SOUTH MAGNOLIA AVENUE  
 Building A Units A101, A102, A103, A104, A201, A202, A203, A204  
 Building B Units B105, B106, B107, B108, B205, B206, B207, B208  
 Building C Units C109, C110, C209, C210  
 APN 632-54-231  
 Address Assignment

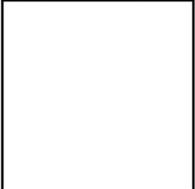
Permit:  
**88964**





Prepared by:  
 DG  
 Date:  
 1/21/2025

Magnolia Gardens Apartments  
 430 South Magnolia Avenue  
 APN 632-54-231  
 Address Site Plan



## Sources

Home Loan (City of Yuma CHDO + Non-CHDO)  
HOME-ARP Loan Funds (City of Yuma)  
Permanent Financing (Foothills Bank)  
Owner/Developer Contribution (Arizona Housing Development Corporation)  
Deferred Developer Fee

### Total Sources

## Uses

Construction	
Base Bid	
Contingency	
	Subtotal Construction Costs
Other Costs	
Utilities	
Permits/Plan Review	
Soils	
Architecture and Engineering	
AHDC Holding Costs (Fencing, taxes, fees)	
Environmental Assessment	
	Subtotal Other Costs
Construction/Permanent Financing Costs	
Appraisal	
Estimated Loan Fees (2% of gross loan)	
	Subtotal Financing Costs
Developer Fee	
	<b>Total Uses of Funds</b>

City of Yuma  
HOME/HOME-ARP Loan Development Agreement  
Magnolia Gardens

## Attachment 5

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\$	580,286.00
\$	2,321,109.00
\$	1,045,000.00
\$	380,908.00
\$	619,139.00

<b>\$</b>	<b>4,946,442.00</b>
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\$	3,938,349.00
\$	189,247.00
\$	4,127,596.00

\$	50,000.00
\$	26,388.00
\$	4,500.00
\$	78,580.00
\$	3,272.00
\$	3,200.00
\$	165,940.00

\$	4,767.00
\$	29,000.00
\$	33,767.00

\$	619,139.00
----	------------

<b>\$</b>	<b>4,946,442.00</b>
-----------	---------------------

*March 10, 2025*

### Scope of Development

Project: Magnolia Gardens

Location: 430 S. Magnolia Avenue  
Yuma, AZ 85364

Funding: \$ 1,045,000.00 Foothills Bank (Private Financing)  
\$ 580,286.00 HOME funds  
\$ 2,321,108.60 HOME-ARP funds  
\$ 380,908.00 Arizona Housing Development Corporation Contribution

Purpose: The purpose is to provide new, affordable rental housing to Qualified Populations and low-income Individuals and families

Project Description: Arizona Housing Development Corporation will construct a 16-unit multifamily housing project with HOME funds, HOME-ARP funds and private financing. The unit mix is as follows:

High HOME		HOME-ARP Qualified Population		Market Rate Units	
2 bedrooms	1 unit	2 bedrooms	4 units	2 bedrooms	3 units
3 bedrooms	1 unit	3 bedrooms	4 units	3 bedrooms	3 units
<b>Total</b>	<b>2 units</b>		<b>8 units</b>		<b>6 units</b>

WHEN RECORDED, RETURN TO:  
City of Yuma  
Neighborhood Services Division  
One City Plaza  
Yuma, Arizona 85364  
Attn: Assistant Director of Neighborhood Services

**DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS  
FOR HOME/HOME-ARP LOAN**

THIS DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS FOR HOME-ARP and HOME LOAN (“Declaration”) dated this \_\_\_\_ day of \_\_\_\_\_, 2025 Arizona Housing Development Corporation, whose address is 420 South Madison Avenue, Yuma, AZ 85364 (the “Owner”), and the City of Yuma, Arizona, an Arizona municipality, whose address is One City Plaza, Yuma, Arizona 85364 (the “City”).

RECITALS

WHEREAS, pursuant to the HOME Investment Partnerships Act (“HOME”), established under Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, the City received HOME funds for certain eligible activities;

WHEREAS, pursuant to the HOME American Rescue Plan (HOME-ARP), established under Section 3205 of the American Rescue Plan Act of 2021 for the HOME Investment Partnerships Program (HOME), the City received HOME-ARP funds for certain eligible activities;

WHEREAS, the City and the Owner have entered into a Development Loan Agreement, dated as of the \_\_\_\_ day of \_\_\_\_\_, 2025, which establishes certain terms of participation by both of the parties thereto (the “Agreement”);

WHEREAS, Arizona Housing Development Corporation is the owner of a certain affordable, multifamily rental housing project located at 430 S. Magnolia Avenue, Yuma, AZ 85364 in the City of Yuma, County of Yuma, and State of Arizona, the legal description of which is more particularly set forth in **Attachment 2** hereto (the “Property”); and

WHEREAS, it is necessary for the Owner and the City to enter into an agreement regarding certain deed restrictions as a condition for the receipt of the HOME-ARP and HOME funds;

AGREEMENT

NOW, THEREFORE, the parties, for and in consideration of the receipt of the HOME-ARP and HOME funds, and such other covenants and conditions herein contained, do hereby agree for themselves, their heirs, executors, administrators, successors, and assigns, as follows:

1. Antidiscrimination Restrictions. The Owner will not illegally or unconstitutionally discriminate against or segregate any person or group of persons on account of race, color, national origin, religion, sex, familial status, or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor will the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property.

2. Affordability Restrictions.

- 2.1. The Owner covenants and agrees that for a period of time commencing from the date this Declaration is executed by the Owner and expiring 20 years from the date of the completion of the project stated in the Certificate of Completion (as defined in Attachment 13 of the Agreement) is recorded (the “Period of Affordability”), the Owner and such of its successors and assigns as the City approves in writing, will use the HOME-ARP and HOME Units (as defined in **Section 2.1 – 2.2** of the Agreement) solely to provide affordable housing to Qualified Population and Low-Income individuals and families (as defined in **Section 7** of the Agreement) and otherwise comply with the requirements of the HOME-ARP and HOME Programs and the provisions of this **Section 2**.
- 2.2. In addition, the Owner covenants and agrees that for a period of time commencing from the date the Period of Affordability terminates and expiring upon the later of (a) 20 years from the date the HOME-ARP and HOME Program Period of Affordability terminates or (b) final payment on the Loan (the “Extended Period of Affordability”), the Owner and such of its successors and assigns as the City approves in writing will use the HOME Units solely to provide affordable housing to Very Low Income Families and otherwise comply with the tenant income restrictions, rent restrictions and the other provisions of this **Section 2**.
- 2.3. HOME-ARP Units – Rent Limit for Qualified Populations.
- 2.3.1. Six (6) Floating HOME-ARP Units will be occupied by Qualified Population individuals and families. The term “Qualified Populations” refers to individuals or families that are (1) Homeless, as defined in 24 CFR 91.5; (2) At risk of homelessness, as defined in 24 CFR 91.5; (3) Fleeing, or attempting to flee, domestic violence, sexual assault, stalking, or human trafficking, as defined by HUD; and (4) part of Other populations where providing supportive services or assistance would prevent a family’s homelessness or would service those with the greatest risk of housing instability. The HOME-ARP Units are designated as fixed units pursuant to 24 C.F.R. 92.252(j).
- 2.3.2. The rent charged for the HOME-ARP Units must meet the following requirement:
- a. The rent may not exceed 30% of the annual income of a family whose income equals 50% of the Yuma median income, with adjustments for smaller and larger families.
  - b. If the unit receives federal or state project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the federal or state project-based rental subsidy program.

- c. If a household receives Tenant-Based Rental Assistance (TBRA), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program)
- d. The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance established pursuant to CPD-21-10 *Requirements for the Use of Funds in the HOME-ARP Program* Notice, Section VI.B.13.d.

2.4. Two (2) Floating HOME-ARP Units – Rent Limit for Low-Income Households under HOME-ARP.

2.4.1 For HOME-ARP units occupied by “low-income households,” the rent must comply with the limitations in 24 CFR Part 92.252(a). The maximum rents are the lesser of:

- a. The fair market rent (FMR) for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
- b. A rent that does not exceed 30% of the adjusted income of a family whose annual income equals 65% of the Yuma median income, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME-ARP rent limits provided by HUD will include occupancy per unit and adjusted income assumptions.
- c. Notwithstanding the foregoing, when a household receives a form of federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program).
- d. The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to CPD-21-10 *Requirements for the Use of Funds in the HOME-ARP Program* Notice, Section VI.B.13.d.

2.5 HOME Units.

2.5.1 Designated HOME Units will be occupied by very low-income individuals and households whose annual income, at the time of initial occupancy, does not exceed 60% of the median family income for Yuma, as determined by HUD, with adjustments for family size. The HOME Units are designated as floating units pursuant to 24 CFR 92.252(j).

2.5.2 The rent charged for the HOME Units will not exceed the lesser of:

- a. High HOME Rent, or
- b. Fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111, less the monthly allowance for utilities and services (excluding telephone) to be paid by the tenant.
- c. Or the City of Yuma published rents.

- 2.6 For purposes of this Declaration, the terms “family” and “families” have the same meaning given those terms in 24 CFR § 5.403. For the purposes of this Declaration, a family’s income will be determined in accordance with 24 CFR § 5.609.
- 2.7 The HOME-ARP and HOME Units may not be refused for leasing to a holder of a certificate or voucher under 24 CFR Part 982 or to the holder of a comparable document evidencing participation in a SECTION 8 tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate or voucher, or comparable SECTION 8 tenant-based assistance document.
- 2.8 Enforcement of the provisions of this Declaration will not result in any claim against the Project, the Loan, or the rents or other income from the Property.

3. Covenants Run with the Land; Successor Bound Thereby.

3.1 Upon execution and delivery by the Owner, the Owner will cause this Declaration and all amendments and exhibits hereto to be recorded and filed in the official records of the county recorder’s office in which the Property is located, and pay all fees and charges incurred in conjunction with the recording of this Declaration and all addenda or amendments thereto. Upon recording, the Owner will immediately transmit or cause to be sent directly to the City an executed original of the recorded Declaration showing the date of recording and the Recorder’s Number.

THE OWNER INTENDS, DECLARES AND COVENANTS, ON BEHALF OF ITSELF AND ALL FUTURE OWNERS AND OPERATORS OF THE PROPERTY THAT, DURING THE TERM OF THIS DECLARATION, ALL OF THE COVENANTS AND RESTRICTIONS SET FORTH IN THIS DECLARATION REGULATING AND RESTRICTING THE USE, OCCUPANCY AND TRANSFER OF THE PROPERTY (I) WILL BE AND ARE COVENANTS RUNNING WITH THE PROPERTY, ENCUMBERING THE PROPERTY, AND ARE BINDING UPON THE OWNER’S SUCCESSORS IN TITLE AND ALL SUBSEQUENT OWNERS AND OPERATORS OF THE PROPERTY, (II) ARE NOT MERELY PERSONAL COVENANTS OF THE OWNER, AND (III) WILL BIND THE OWNER AND ITS RESPECTIVE SUCCESSORS AND ASSIGNS DURING THE TERM OF THIS DECLARATION. THE OWNER HEREBY AGREES THAT ANY AND ALL REQUIREMENTS OF THE LAWS OF THE STATE OF ARIZONA TO BE SATISFIED IN ORDER FOR THE PROVISIONS OF THIS DECLARATION TO CONSTITUTE DEED RESTRICTIONS AND COVENANTS RUNNING WITH THE LAND WILL BE DEEMED TO BE SATISFIED IN FULL, AND THAT ANY REQUIREMENTS FOR PRIVACY OF ESTATE OR TITLE ARE INTENDED TO BE SATISFIED HEREBY, OR IN THE ALTERNATIVE, THAT AN EQUITABLE SERVITUDE HAS BEEN CREATED TO ENSURE THAT THESE RESTRICTIONS WILL RUN WITH THE LAND. FOR THE TERM OF THIS DECLARATION, EACH AND EVERY CONTRACT, DEED OR OTHER INSTRUMENT HEREAFTER EXECUTED CONVEYING THE PROPERTY OR ANY PORTION THEREOF WILL EXPRESSLY PROVIDE THAT SUCH CONVEYANCE IS SUBJECT TO THIS DECLARATION; PROVIDED, HOWEVER, THAT THE COVENANTS CONTAINED HEREIN WILL SURVIVE AND BE EFFECTIVE REGARDLESS OF WHETHER SUCH CONTRACT, DEED, OR OTHER INSTRUMENT HEREAFTER EXECUTED CONVEYING THE PROPERTY OR ANY PORTION THEREOF PROVIDES THAT SUCH CONVEYANCE IS SUBJECT TO THIS DECLARATION.

4. Amendment. No amendment to this Declaration may be made without the prior written approval of the Owner and the City. The Owner hereby expressly agrees to enter into all amendments hereto which, in the opinion of counsel for the City, are reasonably necessary or desirable for maintaining compliance with the HOME Investment Partnerships Act.
5. Notices. All notices, requests, demands and consents to be made hereunder to the parties hereto must be in writing and must be delivered by hand or sent by registered mail or certified mail, postage prepaid, return receipt requested, through the United States Postal Service to the following addresses:

To City:                   City of Yuma  
                                  Planning and Neighborhood Services Department  
                                  One City Plaza  
                                  Yuma, Arizona 85364  
                                  Attn: Neighborhood Services Assistant Director

To Trustor:               Arizona Housing Development  
                                  Corporation/ Magnolia Gardens  
                                  420 S. Madison Avenue  
                                  Yuma, AZ 85364  
                                  Attn: Fernando Quiroz

With a copy to:       Arizona Housing Development  
                                  Corporation/ Magnolia Gardens  
                                  420 S. Madison Avenue  
                                  Yuma, AZ 85364  
                                  Attn: Luz Acosta

The Owner and the City may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications must be sent.

6. Governing Law. This Declaration will be governed by the laws of the State of Arizona and, where applicable, the laws of the United States of America.
7. Release. Upon the expiration of the term hereof, the City agrees to promptly execute and deliver to Owner, a release of this Declaration duly executed and in recordable form for filing in the County Recorder's Office.

[Signature page follows]

IN WITNESS WHEREOF, the foregoing instrument was executed by the parties hereto effective as of the date first above written.

OWNER:

Arizona Housing Development Corporation, an  
Arizona nonprofit corporation

By: \_\_\_\_\_  
Fernando Quiroz  
President

State of Arizona        )  
                                  ) ss.  
County of Yuma        )

The foregoing Declaration consisting of 7 pages was acknowledged before me this the \_\_\_ day of \_\_\_\_\_ 2025, by Fernando Quiroz, President, on behalf of Arizona Housing Development Corporation.

Notary Public

My Commission will expire:  
\_\_\_\_\_

City: City of Yuma, Arizona, a municipal corporation  
John D. Simonton, City Administrator  
By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk  
Approved as to form:

\_\_\_\_\_  
City Attorney  
State of Arizona                    )  
  ) ss.  
County of Yuma                    )

This Declaration, consisting of 7 pages plus an attached Exhibit A, and signed by John D. Simonton, City Administrator, was acknowledged before me this date on behalf of the City of Yuma.

Notary Public

My Commission Expires:  
\_\_\_\_\_

Notice required by A.R.S. § 41-313: The foregoing notarial certificate relates to the Declaration made as of the \_\_\_\_ day of \_\_\_\_\_ 2025, executed by Arizona Housing Development Corporation, an Arizona nonprofit corporation, and the City of Yuma, Arizona (the "Notarized Document"). The Notarized Document contains a total of 7 pages, inclusive of all schedules, exhibits, attachments and this notarial certificate.

**EXHIBIT A**

**Legal Description**

A LOT TIE OF LOT 4, LOT 9, AND NORTH HALF OF LOTS 5 AND 8, BLOCK 27 OF TOWNSEND TRACT AS RECORDED IN BOOK 1 OF PLATS, PAGE 14, AND MODIFIED PER ROBLES LOT TIE AS RECORDED IN BOOK 16 OF PLATS, PAGE 66, YUMA COUNTY RECORDS. LOCATED IN A PORTION OF THE NORTHEAST CORNER OF THE SOUTHWEST CORNER OF SECTION 20, TOWNSHIP 8 SOUTH, RANGE 23 WEST GILA AND SALT RIVER BASE AND MERIDAN; CITY OF YUMA, YUMA COUNTY, ARIZONA

**HOME AND HOME ARP PROGRAM PROMISSORY NOTE SECURED BY DEED OF TRUST  
(Rental)**

\$ 580,286 (HOME) and \$2,321,108.60 (HOME-ARP) \_\_\_\_\_, 2025  
Principal Amount Total \$2,901,394.60 Date

430 S Magnolia Avenue, Yuma, Arizona 85364 (the "Property")  
Property Address

\_\_\_\_\_, 2045  
Maturity Date

**Borrower:**

Arizona Housing Development Corporation  
420 S. Madison Avenue  
Yuma, AZ 85364

**Lender:**

City of Yuma, an Arizona municipal corporation  
acting on behalf of the Yuma County HOME  
Consortium  
Attention: Neighborhood Services  
One City Plaza  
Yuma, AZ 85364

In exchange for value received, the undersigned Arizona Housing Development Corporation, an Arizona domestic nonprofit corporation (BORROWER) hereby promises to pay to the City of Yuma (LENDER), the principal sum of two million nine hundred and one thousand three hundred and ninety-four and 60/100 dollars (\$2,901,394.60), in lawful money of the United States.

This Note is subject to the following terms and conditions:

- A. Loan Terms: The Loan is provided with a zero percent (0%) interest rate and no payments for a twenty-year (20) period. The Loan will be forgiven in full on the twentieth year anniversary of the date the Certificate of Completion is recorded (referred to as "Loan Term"), and not on a prorated basis, on the express condition that the BORROWER complies with all of the terms and conditions in this Note, the Deed of Trust, and the HOME and HOME-ARP Development Loan Agreement, together with all exhibits including the Declarations (referred to as the "Agreement"), executed \_\_\_\_\_, 2025. Each of the terms of the Agreement, the Declarations, and the Deed of Trust are incorporated herein by reference.
  
- B. Repayment: The full amount of the loan will be due and repayable if the Property is

conveyed, assigned, sold, transferred, hypothecated, subjected to an additional mortgage or deed of trust or any other type of encumbrance other than the Permitted Encumbrances as described in Section 1.24 of the Agreement, whether voluntary, involuntary or by operation of law, during term of this Note. The LENDER shall have the right, in its sole and absolute discretion, to declare the full indebtedness secured by the Deed of Trust to be immediately due and payable upon default of the terms and conditions outlined in this Note, the Deed of Trust, or Agreement. If the unpaid principal balance of the Loan shall become immediately due and payable in full, the amount due shall bear interest until paid at a default rate of interest of four percent (4%) per annum.

- C. Net Proceeds: If BORROWER fails to comply with the terms of this Note, LENDER may voluntarily or involuntarily (i.e. through foreclosure) recapture the full amount owed under the Note. Repayment of this Note will be from the “net proceeds” of the sale of the property. The “net proceeds” means sales price minus the sum of the superior loan repayment (other than HOME funds) and any closing costs. For illustration purposes only, Net Proceeds = Sales Price – (Superior Loan Repayment + Foreclosure Costs).

The LENDER will not recapture more than what is available from the “net proceeds” of the sale of the Property. The LENDER will not require the BORROWER to repay any outstanding amount owed on the Note beyond the funds available to LENDER through the net proceeds. If LENDER recaptures the entire amount of the loan from the net proceeds, any amount left over shall first be used to pay any Permitted Encumbrance of inferior priority to this Note and Deed of Trust or returned to BORROWER.

- D. BORROWER shall not sell the Property for an amount less than the value established by appraisal at the time of sale of the Property without expressed written consent of the LENDER.
- E. In order for the Loan to be forgiven at the end of the term of this Note, the Property must be in full compliance with all HOME and HOME-ARP Program requirements, local laws, and regulations during the Affordability Period. If the BORROWER receives a code violation citation, BORROWER shall remediate the violation within either 14 days or the amount of time stated on the citation, whichever is later. If the BORROWER fails to remediate the violation, the Loan Term will be extended for one additional year for each separate violation.
- F. The BORROWER may prepay this Note, in whole or part, at any time, in lawful money of the United States of America at the office of LENDER at One City Plaza, Yuma, Arizona, 85364 (or such other place as LENDER may designate in writing).
- G. Presentment, demand, protest, and notice are hereby expressly waived by the BORROWER. Should default be made in the payment of principal and interest hereon, or such other default occur in the performance of or compliance with any of the covenants



When Recorded Return to:

City of Yuma  
Neighborhood Services Division  
One City Plaza  
Yuma AZ 85364

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS  
(Rental)**

Date: April ____, 2025	County and State where Real Property is located: Yuma County, Arizona
TRUSTOR: Arizona Housing Development Corporation, an Arizona domestic nonprofit corporation 420 S. Madison Avenue Yuma, AZ 85365	BENEFICIARY: City of Yuma, an Arizona municipal corporation acting on behalf of the Yuma County HOME Consortium One City Plaza Yuma AZ 85364
TRUSTEE: City of Yuma, an Arizona municipal corporation acting on behalf of the Yuma County HOME Consortium One City Plaza Yuma AZ 85364	Obligations Secured: Promissory Note Amount \$2,901,394.60 And all obligations described in this deed of trust and the HOME/HOME-ARP Development Loan Agreement including all Declarations and other attached Exhibits
Escrow Number:	Subject Property Address: 430 Magnolia Avenue Yuma, AZ 85364

The TRUST PROPERTY in Yuma County, State of Arizona, is hereafter referred to as the "Trust Property," legally described in Exhibit A, attached and incorporated by reference, together with all buildings, improvements and fixtures thereon.

**Grant.** For valuable consideration, receipt of which is acknowledged, Trustor irrevocably grants, conveys, transfers and assigns to Trustee, in trust, with power of sale, the real property in Yuma County, Arizona described above as the Trust Property), together with (1) all easements, rights-of-way and rights appurtenant to said Trust Property or used in connection therewith or as a means of access thereto, (2) all tenements, hereditaments and appurtenances thereto, including all water and water rights appertaining thereto, (3) Trustor's interest as lessor in all leases affecting said real property, (4) all buildings, structures, improvements, fixtures, trade fixtures, nor or hereafter erected on, affixed or attached to, or located in or on said Trust Property, and all substitutions, replacements, additions and accessions thereof or thereto, (5) all rents, issues, profits, royalties, bonuses, income and other benefits derived from or produced by said Trust Property (subject, however, to the assignment of rents and profits to Beneficiary herein), and (6) all right, title, estate, interest, and other claim or demand, including without limitation, all claims or demands to the proceeds of all insurance now or hereafter in effect with respect to said Trust Property, which Trustor now has or may hereafter acquire in said Trust Property, and all awards made for the taking by condemnation or the power of eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Trust Property for the purpose of securing the Trustor's/Owner's obligations ("Obligations") to (i) payment of the indebtedness in the principle sum of \$2,901,394.60 evidenced by Promissory Note of even date herewith, and any extension or renewal thereof, executed by Trustor in favor Beneficiary; (ii) performance of Trustor's obligations under the HOME/HOME-ARP Development Loan Agreement including all Declarations and other attached Exhibits; and (iii) performance of all other obligations of Trustor under this Deed of Trust.

A. The Trustor warrants and represents to Beneficiary that Trustor has good and merchantable fee simple title to the real property also referred to as the Trust Property, subject only to patent reservations, current taxes not delinquent, easements and restrictions of public record, and none other. Trustor further warrants the correctness of the legal description of the Property attached hereto as Exhibit A and Trustor authorizes Beneficiary to do all acts and execute all documents necessary for the correction of any such error or defect and the perfection, protection, preservation or enforcement of Beneficiary's rights under this Deed of Trust. To protect the security of this Deed of Trust, Assignment of Leases and Rents, ("Deed of Trust"), Trustor agrees:

1. To appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees, in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

2. To pay when due and before delinquent all taxes and assessments affecting said real property, including assessments on appurtenant water stock, and all encumbrances, charges and liens, with interest, on said real property or any part thereof which appear to be prior or superior hereto, and all costs, fees and expenses of Trustee and this Trust.

3. If Trustor fails to make any payment or to do any act in accordance with this Deed of Trust, then Beneficiary or Trustee, after fifteen (15) days' notice to and demand upon Trustor and without releasing Trustor from any obligation hereunder, shall have the right, but no duty, to make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, including specifically, without limiting their general powers, the right to enter upon and take possession of said real property, to make additions, alterations, repairs and improvements to said real property which either of them may consider necessary or proper to keep said real property in good condition and repair, to appear and participate in any action or proceeding affecting or which may affect said real property, the security hereof, or the rights or powers of Beneficiary or Trustee hereunder, to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either of them may affect or appears to affect the security hereof or may be prior or superior hereto, and in exercising such powers, to pay necessary expenses, including employment of attorneys or other necessary or desirable consultants. Trustor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary all amounts expended by Beneficiary and all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights and powers, including, without limitation, costs of evidence of title, court costs, appraisals, surveys and reasonable attorneys' fees, together with interest thereon from the date of expenditure to the date of repayment as described in the HOME/HOME-ARP Development Loan Agreement.

B. It is mutually agreed that this Deed of Trust is not intended to modify the HOME/HOME-ARP Development Loan Agreement and that:

1. All awards of damages or compensation now or hereafter made in connection with any taking by eminent domain or condemnation for public use of or injury to said real property or any part thereof, are hereby assigned and shall be paid to Beneficiary, who may apply or release such awards or compensation received by Beneficiary in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance. Trustor agrees to execute such further assignments of any such awards or compensation as Beneficiary may require.

2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to prompt payment when due of all other sums so secured or to declare a default for failure so to pay.

3. Without affecting the liability of any person, including Trustor, for the performance of the Obligations secured by this Deed of Trust upon said real property, Beneficiary may from time to time and without notice do any one or more of the following: substitute or release any person now or hereafter liable for the performance of the Obligations or any part thereof; extend the time or otherwise alter performance of the Obligations; accept additional security therefore of any kind; or substitute or release any property or any portion thereof securing such performance of the Obligations without, as to the remainder of the security, otherwise impairing or affecting the liens and priority herein created.

4. At any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of the Deed of Trust, and without affecting the liability of any entity for the performance of the Obligations, Trustee may: reconvey any part of said real property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement of any agreement subordinating the lien or charge hereof.

5. Upon written request of Beneficiary stating that all of the Obligations have been performed, and upon surrender of this Deed of Trust to Trustee for cancellation, and upon payment of Trustee's fees, Trustee shall reconvey, without warranty, the real property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

6. Trustor absolutely and irrevocably assigns and transfers to Beneficiary all rents, issues, profits, royalties, bonuses, income and other benefits derived from or produced by said Trust Property (all of the foregoing are herein collectively referred to as the "rents and profits"). Trustor hereby gives to and confers upon Beneficiary the right, power and authority to collect said rents and profits. Trustor irrevocably appoints Beneficiary his true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time, either with or without taking possession of said Trust Property, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Trustor or Beneficiary, for all said rents and profits and apply the same to the payment or performance of the Obligations secured hereby. Trustor shall, nevertheless, have a license to collect and retain said rents and profits as the same become due and payable but only before the occurrence of a default under this Deed of Trust and as long as no such default exists. The assignment of said rents and profits is intended to be a present and absolute assignment from Trustor to Beneficiary and not merely the creation of a security interest. Beneficiary's license to collect said rents and profits is not contingent upon Beneficiary's taking possession of said Trust Property. Upon the occurrence of a default under this Deed of Trust, Trustor's license to collect the rents and profits shall automatically terminate without notice, and Beneficiary may, and as long as any such default exists, either in person, by agent or by a receiver appointed by a court, and without regard to the value of said, Trust Property, or any part thereof, in its own name sue for or otherwise collect said rents and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The collection of said rents and profits, or the entering upon and taking possession of said Trust Property, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

7. The occurrence of any of the following shall be a default under this Deed of Trust: failure to perform any of the Obligations secured hereby when due and such failure continues for fifteen (15) days after notice to Trustor; failure to perform any other agreement of

Trustor herein when due and such failure continues for fifteen (15) days after the same becomes due and payable; Trustor commences a voluntary case under the federal Bankruptcy Code as now or hereafter in effect, or any successor thereto; an involuntary case under such Bankruptcy Code is commenced against Trustor and is not controverted or, if controverted, is not dismissed within sixty (60) days after the commencement of such case; a receiver, trustee, custodian or similar official is appointed for, or takes charge of, said Trust Property, said collateral, or all or substantially all of the property of Trustor; Trustor commences any other proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency, liquidation or similar law of any jurisdiction now or hereafter in effect relating to Trustor; any such proceeding is commenced against Trustor and is not controverted or, if controverted, is not dismissed within sixty (60) days after commencement; Trustor is adjudicated insolvent or bankrupt; any order of relief or other order approving any such case or proceeding is entered; Trustor makes a general assignment for the benefit of creditors; or there has occurred any other breach of, or default of the Obligations or any other provision of this Deed of Trust.

8. At any time after the occurrence of a default under this Deed of Trust, Beneficiary may, at its option and in its sole discretion, and without further notice or demand to or upon Trustor, do one or more of the following:

a. Beneficiary may enter upon, take possession of, manage and operate the Trust Property or any part thereof; make repairs and alterations and do any other acts which Beneficiary considers necessary or proper to protect the security hereof; and either with or without taking possession, in its own name, sue for or otherwise collect and receive rents, issues, and profits, including those past due and unpaid, and apply the same less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any of the costs of performing the Obligations secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of the real property, the collection of any rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default theretofore or thereafter occurring, or affect any notice of default hereunder or invalidate any act done pursuant to any such notice. Notwithstanding Beneficiary's continuance in possession or receipt and application of rents, issues or profits, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust or by law upon or after the occurrence of a default, including the right of exercise of the power of sale. Any of the actions referred to in this paragraph may be taken by Beneficiary at such time as Beneficiary is so entitled, without regard to the adequacy of any security for the indebtedness hereby secured.

b. Beneficiary shall, without regard to the adequacy of any security for the Obligations hereby secured and without notice, be entitled to the appointment of a receiver to take possession of and protect the Trust Property, and operate the same and collect the rents, issues and profits therefrom. Trustor hereby irrevocably consents to such appointment and expressly waives any right to receive notice of application for such appointment and the right to a hearing prior to such appointment. The receiver shall have all the usual powers and duties of receivers in similar cases, including without limitation, the full power to rent, maintain and otherwise operate the property upon such terms as may be approved by the court.

c. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this Deed of Trust as a mortgage or to enforce any of the covenants hereof.

d. Beneficiary may elect to cause the property or any part thereof to be sold at trustee's sale as follows:

1) Beneficiary may proceed as if all of the property, including said collateral, were real property, in accordance with Subparagraph 3) below, or Beneficiary may elect to treat any of the property which consists of a right in action or which is property that can be severed from the Trust Property without causing structural damage thereto as if the same were personal property, and dispose of the same in accordance with Subparagraph 2) below, separate and apart from the sale of Trust Property, the remainder of such property being treated as real property. Should Beneficiary desire that more than one sale or other disposition be conducted, Beneficiary may at its option cause the same to be conducted simultaneously or successively on the same day or at such different days or times and in such order as Beneficiary may deem to be in its best interest.

2) Should Beneficiary elect to cause any of the property to be disposed of as personal property as permitted by Subparagraph 1) above, Beneficiary may dispose of any part thereof in any manner now or hereafter permitted by Chapter 9 of the Uniform Commercial Code, *Arizona Revised Statutes* Sections 47-9101 et. seq., or in accordance with any other remedy provided by law. Both Trustor and Beneficiary shall be eligible to purchase any part or all of such property at any such disposition. Any such disposition may be either public or private as Beneficiary may so elect, subject to the provisions of applicable law. Beneficiary shall give Trustor at least ten (10) days' prior written notice of the time and place of any public sale or other disposition of such property or of the time at or after which any private sale or any other intended disposition is to be made, and if notice is sent to Trustor in the manner as provided herein, such notice shall constitute reasonable notice to Trustor.

3) Should Beneficiary elect to sell the property which is real property or which Beneficiary has elected to treat as real property, upon such election Beneficiary or Trustee shall give such notice of sale and notice of default and election to sell as may be required by law. Thereafter, upon the expiration of such time as may then be required by law, Trustee, at the time and place specified by the notice of sale, shall sell such property, or any portion thereof specified by Beneficiary, at public auction to the highest bidder for cash in lawful money of the United States, subject, however, to the provisions of Subparagraph 4) below. Beneficiary may make a credit bid or bids in the amount of all or any portion of the indebtedness secured by this Deed of Trust, including without limitation, title search fees and policy premiums, attorneys' fees, appraisal and other costs, expenses and fees incurred in connection with foreclosure of this Deed of Trust. Trustee may, and upon request of Beneficiary shall, from time to time, postpone the sale by public announcement thereof at the time and place noticed therefor. If the property consists of several lots or parcels, Beneficiary may designate the order

in which the property shall be offered for sale or sold. Any person, including Trustee or Beneficiary, may purchase at the sale. Upon sale, Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the property so sold, but without any covenant or warranty whatsoever, express or implied, whereupon such purchaser or purchasers shall be let into immediate possession.

4) In the event of a sale or other disposition of any such property, or any part thereof, and the execution of a deed or other conveyance, pursuant thereto, the recitals therein of facts, such as a default, the giving of notice of default and notice of sale, terms of sale, sale, purchaser, payment of purchase money, and any other fact affecting the regularity or validity of such sale or disposition, shall be conclusive proof of the truth of such facts; and any such deed or conveyance shall be conclusive against all persons as to such facts recited therein.

5) Beneficiary and/or Trustee shall apply the proceeds of any sale or disposition hereunder to payment of the following: (i) the expenses of such sale or disposition, together with Trustee's fees and attorneys' fees, and the cost of publishing, recording, mailing and posting the notice of sale; (ii) the cost of any search or other evidence of title procured in connection therewith and revenue stamps on any deed or reconveyance; (iii) to the costs of performance of the Obligations secured by this Deed of Trust; (4) all other sums secured hereby or required to be expended in connection with the mortgaged property whether or not expressly contemplated hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto in the order of their priority.

6) Trustor hereby expressly waives any right Trustor may have to direct the order in which any of the property shall be sold.

7) Upon sale of the property, whether made under the power of sale herein granted or pursuant to judicial proceedings, if the holder of the Beneficiary is the purchaser, the Beneficiary shall be entitled to use and apply as a credit all or any portion of the indebtedness then secured hereby for or in settlement or payment of all or any portion of the purchase price of the property purchased.

9. Beneficiary may from time to time substitute in such manner as may be provided by law a successor or successors to any Trustee named herein or acting hereunder, which successor Trustee shall thereupon succeed, without conveyance from the predecessor, to all of Trustee's powers, duties, authority and title; or, in the absence of any such law providing for the substitution of trustees in deeds of trust, Beneficiary may, with like effect, make such substitution from time to time by instrument in writing executed and acknowledged by Beneficiary and recorded in the county or counties in which said real property is situated. Said instrument shall contain the name of the original Trustor, Trustee and Beneficiary, the book and page or document number where this Deed of Trust is recorded, the name of the new Trustee or such other information as may be required by law.

10. Trustor hereby waives the right to assert any statute of limitations as a bar to the enforcement of this Deed of Trust or to any action brought to enforce the Obligations secured by this Deed of Trust. Notwithstanding the existence of any other liens in said real property or security interests in said collateral held by Beneficiary or by any other party, Beneficiary shall have the right to determine the order in which any or all of the said real property or said collateral shall be subjected to the remedies provided herein. Beneficiary shall have the right to determine the order in which the Obligations secured hereby is satisfied from the proceeds realized upon the exercise of the remedies provided herein. Trustor, any party who consents to this Deed of Trust, and any party who now or hereafter acquires a lien or security interest in said real property or said collateral and who has actual or constructive notice of this Deed of Trust hereby expressly waives and relinquishes any and all rights to demand or require the marshaling of liens or the marshaling of assets by Beneficiary in connection with the exercise of any of the remedies provided herein or permitted by applicable law. Trustor expressly waives and relinquishes any and all rights and remedies Trustor may have or be able to assert by reason of laws relating to the rights and remedies of sureties or guarantors, including, without limitation, A.R.S. Section 12-1641, et. seq., and Rule 17 (f), *Arizona Rules of Civil Procedure*.

11. The invalidity of any provision of this Deed of Trust shall not affect the remaining provisions of this Deed of Trust or any part thereof and this Deed of Trust shall be construed as if such invalid provision, if any, had not been inserted herein.

12. The Trust hereby created shall be irrevocable by Trustor.

13. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their respective heirs, personal representatives, successors and assigns. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine or the neuter and the singular number includes the plural.

14. If Trustor, or any successor or assign, sells, conveys, alienates, leases (other than to tenants in the ordinary course of business with no option to purchase), assigns, transfers or encumbers, or contracts to sell, convey, alienate, lease (other than to tenants in the ordinary course of business with no option to purchase), assign, transfer or encumber, all or any part of said real property or any interest in said real property, whether any of the foregoing events occurs in any manner, directly or indirectly, whether voluntary, involuntary or by operation of law, without the prior written consent of Beneficiary, then, and in any such event, all of the Obligations secured by this Deed of Trust shall become immediately due at the election of Beneficiary, without notice. Trustor shall give reasonable written notice to Beneficiary of any transfer of said Trust Property or other event described in this paragraph prior to any such transfer or event. Trustor shall furnish in writing to Beneficiary all reasonable information concerning any transfer of said Trust Property or other such event that is requested by Beneficiary, including, without limitation, the name and address of the transferee, financial statements of the transferee, a full description of the business of the transferee, and the complete terms of the transfer.

15. Trustor shall not suffer any waste of the Trust Property and will not permit or conduct either the generation, treatment, storage or disposal of hazardous waste, as defined in the Resource Conservation and Recovery Act, or the disposal on the Property of petroleum or any hazardous substance, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, and will perform all remedial actions reasonably necessary as the result of the presence of any such hazardous wastes, petroleum or hazardous substances on, at or near the Trust Property. Trustor shall be personally liable for any loss, damage or liability suffered by Beneficiary due to the presence of any such hazardous waste, petroleum or hazardous substance at, on or near the property, and Trustor shall be liable for compliance (and for costs associated therewith) with any directive or order by any governmental entity relating to the presence of any such hazardous waste, petroleum or hazardous substance on, at, or near the property. Trustor will deliver promptly to the Beneficiary, (i) copies of any documents received from the United States Environmental Protection Agency and/or state, county or municipal environmental or health agency concerning the Trustor's operations upon the Trust Property; and (ii) copies of any documents submitted by the Trustor to the United States Environmental Protection Agency concerning its operations on the Trust Property. Trustor shall indemnify, defend and hold Beneficiary harmless from any claims, damages, actions, liabilities, causes of action, lawsuits, investigations and judgments of any nature whatsoever, including without limitation, attorney's fees and expenses, incurred by Beneficiary in connection with the use, generation, treatment, storage or disposal of any hazardous or toxic chemical, material, substance or waste on or at the Trust Property, such indemnity and hold harmless agreement shall, independent of this Deed of Trust and its release and reconveyance survive satisfaction of the Obligations secured hereby.

16. Trustor, its successors and assigns and each of them, represent and warrant that the property involved in this transaction does not represent the proceeds of some form of unlawful activity under any state, federal or foreign law.

17. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee is a party unless brought by Trustee. Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address set forth above on page 1 hereof for Trustor.

18. This Deed of Trust shall be governed by and interpreted, construed and enforced according to the laws of the State of Arizona.

19. Any action brought to interpret, enforce or construe any provisions of this Deed of Trust shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Yuma. The parties hereto irrevocably consent to jurisdiction and venue in such court for such purposes and agree not to seek transfer or removal of any action from such court.

Trustor: Arizona Housing Development Corporation

By: \_\_\_\_\_  
President

STATE OF ARIZONA        )  
                                  )ss  
County of Yuma            )

This instrument was acknowledged and executed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2025 by Fernando Quiroz, President, on behalf of the Arizona Housing Development Corporation.

\_\_\_\_\_  
Notary Public

[STAMP/SEAL]

**EXHIBIT A**  
LEGAL DESCRIPTION

A LOT TIE OF LOT 4, LOT 9, AND NORTH HALF OF LOTS 5 AND 8, BLOCK 27 OF TOWNSEND TRACT AS RECORDED IN BOOK 1 OF PLATS, PAGE 14, AND MODIFIED PER ROBLES LOT TIE AS RECORDED IN BOOK 16 OF PLATS, PAGE 66, YUMA COUNTY RECORDS. LOCATED IN A PORTION OF THE NORTHEAST CORNER OF THE SOUTHWEST CORNER OF SECTION 20, TOWNSHIP 8 SOUTH, RANGE 23 WEST GILA AND SALT RIVER BASE AND MERIDAN; CITY OF YUMA, YUMA COUNTY, ARIZONA

## Insurance Specifications

### General.

Borrower shall, at a minimum, comply with the bonding requirements of 24 CFR 200.325 and insurance requirements in 24 CFR 200.310, which require that the Awardee provide at least the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the Awardee. Federally owned property need not be insured unless required by the terms and conditions of the Federal award.

Insurer Qualifications. Without limiting any obligations or liabilities of Awardee, Awardee shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to Arizona Revised Statutes ("A.R.S.") § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

No Representation of Coverage Adequacy. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to always maintain the required insurance during the performance of this Agreement.

Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name and endorse, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials, and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

Primary Insurance. Awardee's insurance shall be primary, non-contributory insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Awardee. Awardee shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement.

Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. Awardee shall be solely responsible for any such deductible or self-insured retention amount.

Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Awardee shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Awardee. Awardee shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

Evidence of Insurance. Prior to commencing any work or services under this Agreement, Awardee will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Awardee's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. The City may reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, Awardee shall forward renewal certificates and declaration page(s) to the City thirty (30) days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title of this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

- (1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:
  - (a) Commercial General Liability – Under Insurance Services Office, Inc., ("ISO") Form CG 20 10 03 97 or equivalent.
  - (b) Auto Liability – Under ISO Form CA 20 48 or equivalent.
  - (c) Excess Liability – Follow Form to underlying insurance.

(2) Awardee's insurance shall be primary, non-contributory insurance with respect to performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Awardee under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

**Required Insurance Coverage.**

**Commercial General Liability.** Awardee shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be endorsed as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

**Vehicle Liability.** Awardee shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Awardee's owned, hired and non-owned vehicles assigned to or used in the performance of the Awardee's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be endorsed as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

**Professional Liability.** If this Agreement is the subject of any professional services or work, or if the Awardee engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Awardee shall maintain Professional Liability insurance

covering negligent errors and omissions arising out of the Services performed by the Awardee, or anyone employed by the Awardee, or anyone for whose negligent acts, mistakes, errors and omissions the Awardee is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

Workers' Compensation Insurance. Awardee shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Awardee's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

Additional Coverage. To the fullest extent permitted by law, if the Awardee maintains higher insurance limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limit maintained.

**Cancellation and Expiration Notice.**

Insurance required herein shall not expire, be canceled, or be materially changed without thirty (30) days' prior written notice to the City.

**Affirmative Marketing Monitoring and Occupancy Verification Report**

Borrower Name: Arizona Housing Development Corporation, an Arizona Non-Profit Organization

Project: Magnolia Gardens

Project Address: 430 S Magnolia Avenue, Yuma, AZ 85364

Phone: (928) 318-5801

- |   |               |               |
|---|---------------|---------------|
| 1. Is an Equal Housing Opportunity sign posted in the office?   | <u>      </u> | <u>      </u> |
| 2. Are copies of Affirmative Marketing Advertising available for view?  | <u>      </u> | <u>      </u> |
| 3. Is an Equal Housing Opportunity Logo emphasized in advertising?  | <u>      </u> | <u>      </u> |
| 4. SPECIAL OUTREACH: When there are vacancies, does the owner contact minority organizations?   | <u>      </u> | <u>      </u> |
| 5. RECORDKEEPING: Does the owner keep records of the racial, ethnic, and gender characteristics of tenants occupying HOME-assisted units? | <u>      </u> | <u>      </u> |
| 6. Does the owner keep records of the tenants occupying units before the units were assisted with HOME-ARP funds?                         | <u>      </u> | <u>      </u> |

**HOME Unit Description/Occupancy Verification**

Number of HOME Units:        Number of HOME-ARP Units        Units Fixed/Floating?   Fixed   X  Floating

	Head of Household	Unit Number	Number of Bedrooms	Square Feet	Date of Initial Occupancy
1					
2					
3					
4					
5					
6					
7					
8					

Comments:

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I hereby certify that the above-described requirements and/or irregularities have been explained and are fully understood by me. I agree to immediately make proper corrections to the above and will comply with HOME and HOME-ARP regulations as prescribed by the U.S. Department of Housing and Urban Development. I hereby acknowledge receipt of a copy of this Affirmative Marketing Monitoring and Occupancy Verification Report.

---

Signature Title Date

---

Affirmative Marketing Auditor Signature Name Date

**Borrower’s Certification**

**CERTIFICATION REGARDING STATUS AS EMPLOYER  
WITHIN THE MEANING OF A.R.S. §§ 23-211(b) and 23-214**

Borrower Name: Arizona Housing Development Corporation  
Project: Magnolia Gardens  
Project Address: 430 S Magnolia Avenue, Yuma, AZ 85364

Contract No.: \_\_\_\_\_ Date: \_\_\_\_\_

The undersigned Borrower hereby and certifies, under penalty of perjury, that as of the date hereof the following is true and correct:

- 1. Borrower is familiar with the provisions of A.R.S. §§ 23-211 and 23-214.
- 2. Borrower is a non-profit agency that has no employees within the meaning of A.R.S. §§ 23-211 and 23-214.
- 3. If Borrower becomes an employer within the meaning of A.R.S. §§ 23-211 and 23-214, Borrower shall notify the City of Yuma of such change in circumstances, and shall comply with the provisions of A.R.S. §23-214.

**BORROWER:**

Arizona Housing Development Corporation, an Arizona non-profit corporation.

By: Arizona Housing Development Corporation, an Arizona non-profit Corporation,  
Its: Sole Member

By: \_\_\_\_\_  
Fernando Quiroz, President

State of Arizona        )  
                                  ) ss.  
County of Yuma        )

The foregoing Certification consisting of 1 page was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2025, by Fernando Quiroz President, Arizona Housing Development Corporation on behalf of the corporation.

Notary Public

My Commission will expire:  
\_\_\_\_\_

**Certificate of Completion**

[On Following Page]

WHEN RECORDED, RETURN TO:  
City of Yuma  
Neighborhood Services Division  
One City Plaza  
Yuma, Arizona 85364  
Attn: Neighborhood Services  
Exempt under A.R.S. § 11-1134.A.3

**CERTIFICATE OF COMPLETION**

WHEREAS, the City of Yuma, Arizona, an Arizona municipality (the “City”) on behalf of the Yuma County HOME Consortium, and Arizona Housing Development Corporation, an Arizona non-profit agency (the “Borrower”), entered into HOME/HOME-ARP Program Development Loan Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 2025, (City Contract No. \_\_\_\_\_) (the “Agreement”), for the purpose of developing a 16 unit affordable housing complex (consisting of, 8 two- bedroom and 8 three-bedroom units) that will target Qualified Populations and very-low income Magnolia Gardens (the “Project”) on certain real property situated in the City of Yuma, Arizona described or Exhibit A attached hereto (the “Site(s)"); and

WHEREAS, under **Section 7.31** of the Agreement, the City will furnish the Borrower with a Certificate of Completion after the Borrower has satisfactorily completed the Project; and

WHEREAS, pursuant to **Section 7.31** of the Agreement, the Borrower has requested in writing that the City issue the Certificate of Completion; and

WHEREAS, the City or its representative has inspected the Project;

NOW, THEREFORE, the City hereby certifies as follows:

1. The Project, as of \_\_\_\_\_, 202\_\_\_\_, has been completed in accordance with the Agreement.
2. This Certificate of Completion constitutes a conclusive determination that as between the City and the Borrower (and any subsequent owner of the Project) that the Project has been satisfactorily completed in accordance with the Agreement, provided, however, this Certificate of Completion will not constitute evidence of compliance with or satisfaction of any obligation of the Borrower to any other person or entity.

[Signature page follows]

IN WITNESS WHEREOF, the City has executed this Certificate of Completion this the \_\_\_\_ day of \_\_\_\_\_ 202\_\_.

City of Yuma, an Arizona municipal corporation

By: \_\_\_\_\_  
John D. Simonton  
City Administrator

State of Arizona                    )  
  ) ss.  
County of Yuma                    )

The foregoing Certificate of Completion, consisting of 2 pages plus an attached Exhibit A, signed by John D. Simonton was acknowledged before me this date by John D. Simonton, City Administrator, on behalf of the City of Yuma, an Arizona municipal corporation.

Notary Public

My Commission Expires:  
\_\_\_\_\_

**Exhibit A**  
to Certificate of Completion  
*Legal Description*

A LOT TIE OF LOT 4, LOT 9, AND NORTH HALF OF LOTS 5 AND 8, BLOCK 27 OF TOWNSEND TRACT AS RECORDED IN BOOK 1 OF PLATS, PAGE 14, AND MODIFIED PER ROBLES LOT TIE AS RECORDED IN BOOK 16 OF PLATS, PAGE 66, YUMA COUNTY RECORDS. LOCATED IN A PORTION OF THE NORTHEAST CORNER OF THE SOUTHWEST CORNER OF SECTION 20, TOWNSHIP 8 SOUTH, RANGE 23 WEST GILA AND SALT RIVER BASE AND MERIDAN; CITY OF YUMA, YUMA COUNTY, ARIZONA



# City of Yuma

## City Council Report

**File #:** R2025-027

**Agenda Date:** 4/16/2025

**Agenda #:** 1.

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

**TITLE:**

**Agreement: Rural Metro Fire Department**

**SUMMARY RECOMMENDATION:**

Authorize the City Administrator to execute an agreement with the Rural Metro Fire Department for use of the City of Yuma’s Public Safety Training Facility (PSTF). (Fire Department/Administration) (Chief Fields)

**STRATEGIC OUTCOME:**

This agreement furthers the Safe and Prosperous and Connected and Engaged strategic outcomes by providing the means for Rural Metro Fire Department to train their personnel. This will enhance collaborative efforts in areas of fire suppression, medical care, and public safety for the community.

**REPORT:**

The Yuma Fire Department requests approval of an agreement with Rural Metro Fire Department, which will permit Rural Metro’s personnel to use the Public Safety Training Facility for training and other activities in accordance with the City’s established Public Safety Training Facility and any future schedule of fees. This Agreement is for an initial five-year term and will automatically renew for an additional five-year term, unless terminated by either party.

**FISCAL REQUIREMENTS:**

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

**FISCAL IMPACT STATEMENT:**

No additional fiscal impact outside of normal duties of current fire Department personnel is required for providing the joint use of the Public Safety Training Facility.

**ADDITIONAL INFORMATION:**

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

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025

**RESOLUTION NO. R2025-027**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING THE CITY OF YUMA TO ENTER INTO A PUBLIC SAFETY TRAINING FACILITY AGREEMENT WITH RURAL METRO**

WHEREAS the City of Yuma (“City”) owns a Public Safety Training Facility (“PSTF”) that is available to other agencies for training of personnel and related activities; and,

WHEREAS Rural Metro (“User Agency”) is a private fire protection company operating within Yuma County; and,

WHEREAS the Yuma Fire Department (“YFD”) and the User Agency often collaborate in areas of fire suppression, medical care, and public safety; and,

WHEREAS the City and User Agency value their cooperative working relationship; and,

WHEREAS User Agency desires to use the PSTF for training; and,

WHEREAS it is in the best interest of the City to ensure the User Agency has access to facilities that enable it to provide ongoing training to personnel.

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

SECTION 1: The terms of the attached Public Safety Training Facility Agreement are approved.

SECTION 2: The City Administrator is authorized to sign the attached Agreement on behalf of the City of Yuma.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

**AGREEMENT FOR  
USE OF THE CITY OF YUMA PUBLIC SAFETY TRAINING FACILITY**

This Agreement for Use of the City of the Yuma Public Safety Training Facility ("Agreement") is entered into by and between Rural Metro Fire Department Inc ("User Agency") and the City of Yuma ("City"), on behalf of itself and the Yuma Fire Department ("YFD"). User Agency and the City may be referred to individually as "Party" or collectively as the "Parties".

**RECITALS**

WHEREAS the City owns a Public Safety Training Facility ("PSTF") that is available to other agencies for training of personnel and related activities; and

WHEREAS the User Agency is a private fire protection company operating within Yuma County; and

WHEREAS YFD and User Agency often collaborate in areas of fire suppression, medical care, and public safety; and

WHEREAS the City and User Agency value their cooperative working relationship; and

WHEREAS User Agency desires to use the PSTF for training; and

WHEREAS it is in the best interest of the city to ensure User Agency has access to facilities that enable it to provide ongoing training to personnel.

**NOW THEREFORE**, in consideration of the mutual promises set forth herein, the Parties hereby agree to the following terms and conditions:

- 1) **USE OF THE PSTF**. User Agency may use the PSTF for training of fire fighters, emergency medical technicians, paramedics, civilian personnel, and volunteers, or such other uses as deemed appropriate by mutual written agreement of the Parties. User Agency shall schedule its use of the PSTF at least thirty (30) days before the planned use by contacting YFD.
- 2) **AUTHORITY**. The city is authorized to enter into this Agreement Article III, Section 1 of the Charter of the City of Yuma and A.R.S. § 13-3872.
- 3) **EFFECTIVE DATE**. This Agreement is effective as of the date of the signature of the last signing Party.
- 4) **TERM; TERMINATION**. This Agreement shall be for a term of five (5) years starting on the Effective Date ("Initial Term"). This Agreement may be renewed for one (1) additional five (5) year period ("Renewal Term") upon written request from the User Agency to the City not less than sixty (60) days prior to the date of expiration of the Initial Term. The decision to renew shall be in the sole discretion of the City.

This Agreement may be terminated by either Party, with or without cause, upon thirty (30) days written notice to the other Party. Within ten (10) days following termination or non-renewal of this Agreement,

the User Agency shall return all property belonging to the City unless otherwise agreed in writing by the Parties.

- 5) **USE FEES AND OTHER CHARGES.** User Agency acknowledges the City may opt to charge for the use of the PSTF in such amounts as may be established by the City and incorporated into a written fee schedule. The City will provide User Agency with written notice of the fee schedule prior to implementation. In the event User Agency does not agree with the fee schedule, User Agency may terminate this Agreement as provided in Section 4. The User Agency agrees to pay for all consumable product replacement, repair and/or replacement of property and loaned equipment at the PSTF that is damaged, destroyed or rendered inoperable, in part or in whole, because of the User Agency's use of the PSTF. Use fees and other charges shall be due and payable within thirty (30) days of receipt of the City's written itemized invoice.
- 6) **EQUIPMENT REQUIREMENTS.** Prior to the User Agency's use of the PSTF, the City shall provide User Agency a written list specifying the supplies and equipment necessary for the User Agency to safely and properly use the PSTF. The User Agency shall, at its sole cost, obtain all listed equipment and supplies prior to its use of the PSTF.
- 7) **SUPERVISION AND CONTROL.** The city may assign a monitor to ensure User Agency uses the PSTF appropriately. User Agency shall supply its own instructors and support personnel. The City reserves the right to immediately terminate User Agency's use of the PSTF if, in the City's sole discretion, it is determined that such use has resulted in or may result in damage to the PSTF or if such use otherwise presents a threat to the safety of persons or property.
- 8) **RELATIONSHIP OF THE PARTIES.** Each Party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one Party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. Each Party is solely liable for any workers' compensation or other benefits received by their respective employees. Each Party is responsible for the supervision and management of its own personnel. The Parties shall not exchange funds or personnel as a provision of this Agreement.
- 9) **NON-DISCRIMINATION.** The Parties shall comply with the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 2023-01, amending State Executive Orders 2003-22 and 2009-09, the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act, as amended.

## 10) **INSURANCE**

### a) **General**

- i) **Review of Coverage.** The City reserves the right to review all insurance policies and endorsements cited in this Agreement but has no obligation to do so. Failure to demand evidence of compliance with the insurance requirements, or failure to identify any insurance deficiency, shall not relieve User Agency from, or waive, its obligation to maintain the required insurance during the performance of this Agreement.
- ii) **Additional Insured.** All insurance coverage, self-insured retention, and deductibles, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall

name and endorse the City, its agents, representatives, officers, directors, officials, and employees as Additional Insureds, to the fullest extent permitted by law for claims arising out of the performance of this Agreement.

- iii) Coverage Term. All insurance shall be maintained in full force and effect until this Agreement is terminated, except as set forth in Section 10(a)(v).
- iv) Primary Insurance. User Agency's insurance shall be endorsed to indicate it is primary, non-contributory insurance with respect to performance of this Agreement and shall be at least as broad as ISO CG 20 01 04 13.
- v) Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the services. Annually, User Agency shall submit Certificates of Insurance to the City reflecting applicable coverage is in force and contains the provisions for the three-year period.
- vi) Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers, and employees for any claims arising out of the actions, inactions, work, and services of User Agency. Subrogation waivers shall be incorporated into each policy by written endorsement.
- vii) Policy Deductibles and Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. User Agency shall be solely responsible for any such deductible or self-insured retention amount.
- viii) Evidence of Insurance. Prior to using the PSTF, User Agency will provide the City with a certificate(s) of insurance and a copy of the declaration page(s) of the required insurance policy(ies), issued by User Agency's insurance insurer(s). The City may reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage, but such acceptance and reliance shall not waive or alter the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, User Agency shall forward renewal certificates and declaration page(s) to the City thirty (30) days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the title of this Agreement. Certificates of insurance and declaration page(s) shall specifically include the following provisions:
  - (1) The city, its agents, representatives, officers, directors, officials, and employees are Additional Insureds as follows:
    - (a) Commercial General Liability
    - (b) Auto Liability
    - (c) Excess Liability

- (2) User Agency's insurance shall be primary, non-contributory insurance with respect to performance of the Agreement.
- (3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials, and employees for any claims arising out of work or services performed by User Agency under this Agreement.

**b) Required Insurance Coverage**

- i) Commercial General Liability. User Agency shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$3,000,000 for each occurrence, \$3,000,000 Products and Completed Operations Annual Aggregate and a \$5,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be endorsed as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.
- ii) Vehicle Liability. If User Agency drives any vehicles as part of its use of the PSTF, User Agency shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on User Agency's owned, hired, and non-owned vehicles assigned to or used in the performance of the User Agency's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials, and employees shall be endorsed as an Additional Insured under ISO Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.
- iii) Workers' Compensation Insurance. User Agency shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over User Agency's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee and \$1,000,000 disease policy limit.

- c) **Cancellation and Expiration Notice.** The requires insurance shall not expire, be canceled, or be materially changed without thirty (30) days' prior written notice to the City.

## 11) **INDEMNIFICATION**

- a) **Assumption of Risk; Indemnity.** User Agency agrees to conduct its activities at the PSTF in a careful and safe manner. User Agency agrees to assume all risk of damage to, loss, or theft of User Agency's property or that of persons attending or participating in User Agency's activities while such property is located or used at the PSTF. User Agency agrees to assume all risk for damage to the PSTF, and injury or death to persons at the PSTF, arising from or related to User Agency's use or occupancy of the PSTF. User Agency waives all claims against the City.

- (a) User Agency agrees to be responsible and assumes liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the fullest extent required by law. In the event of damage, loss, injury, or death arising from User Agency's use of or activities at the PSTF, the person or entity suffering the loss may submit a claim to User Agency, and such claim will be processed and paid in accordance with applicable law.

- (b) Insurance coverage requirements of this Agreement are not to be construed as limiting the scope of the indemnity in this Agreement.

- b) **Limitation on Negligence of the City; PSTF Accepted "As Is".** User Agency acknowledges and agrees the City has given User Agency full prior access to all portions of the PSTF for inspection of the PSTF to determine its suitability for the intended use. The City agrees to provide access for inspection, upon request, to User Agency prior to its scheduled use. User Agency avows that User Agency 's personnel conducting the inspections have all relevant structural, materials, electrical and other expertise necessary to make such a determination, and that any failure of User Agency's personnel to locate a defect that may lead to any of the losses, damage or liability indemnified against in paragraph (a) above, or User Agency 's failure to inspect, will constitute negligence on the part of the User Agency and its inspectors, and will not be considered negligence on the part of the City. The City is providing User Agency with the use of the PSTF solely on an "As Is" basis. User Agency agrees not to conduct any activities on any portion of the PSTF that User Agency and its qualified employees have not fully inspected and found to be suitable and safe for the intended use at the time such use is undertaken.

- 12) **WAIVER.** No provision in this Agreement shall be construed, expressly or by implication, as a waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of either Party to insist upon strict performance of any of the provisions of this Agreement, or to exercise any of the rights or remedies provided by this Agreement, or any delay in the exercise of any rights or remedies, shall not release either Party from any of the responsibilities or obligations imposed by law or by this Agreement, and shall not be deemed a waiver of any right of either Party to insist upon strict performance of this Agreement.

- 13) **INSTITUTIONAL REVIEW PROCESS.** Prior to the use of the PSTF, User Agency shall deliver to the City written descriptions of the User Agency's training program and intended uses and activities,

including any special devices used in the training experience. User Agency agrees that the City may request intended activities not be undertaken, if, in the City's discretion, the activities pose risk to people or property. The City's failure to object to any activities so disclosed shall not constitute negligence on the part of the City under any circumstances, and User Agency shall remain fully responsible for the safe conduct of all such activities. User Agency hereby acknowledges and agrees that no explosive charges will be detonated without the prior written consent of the City and that no live firearms will be discharged during any User Agency's use of the PSTF.

- 14) **ENVIRONMENTAL REGULATIONS.** User Agency will not permit any Hazardous Substance to be used, stored, generated or disposed of on, in or about the PSTF, or transported to or from the PSTF, by User Agency, User Agency's officers, employees, contractors, invitees, agents, or persons attending or participating in User Agency's activities, without first obtaining the City's written consent, which the City has the sole discretion to grant and to revoke at any time. If the City consents, all Hazardous Substances must be handled at User Agency's sole costs and expense, in compliance with all applicable state, federal or local governmental requirements, using all necessary and appropriate precautions. If User Agency breaches these obligations or if the presence of Hazardous Substances on, in or about the PSTF caused or permitted by User Agency results in contamination of any part of the PSTF, or if contamination by Hazardous Substance otherwise occurs in a manner for which User Agency is legally liable, then User Agency will indemnify and hold harmless the City from and against any and all claims, actions, damages, fines, judgments, penalties, costs, liabilities, losses and expenses (including without limitation, any sums paid for settlement of claims, court costs, attorneys' fees, consultant and expert fees) arising during or after the expiration or termination of this Agreement as a result of any breach or contamination. Without limitation, if User Agency causes or permits the presence of any Hazardous Substance on, in or about the PSTF and this results in contamination of any part of the PSTF, User Agency will promptly, at its sole cost and expense, take all necessary actions to return the PSTF and any adjacent properties and structures to the condition existing prior to the presence of any Hazardous Substance. User Agency shall first obtain the City's approval for any such remedial action. "Hazardous Waste" or a "Hazardous Substance" as used herein are defined terms pursuant to state, federal or local government law. "Hazardous Substance" includes but is not restricted to asbestos, polychlorobiphenyls and petroleum.
- 15) **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding of the Parties with respect use of the PSTF. There are no representations or agreements other than those contained in this Agreement. Any amendment or modification of this Agreement shall be made in writing and executed by authorized representatives of the Parties.
- 16) **SEVERABILITY.** The Parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the Parties.
- 17) **COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original and together shall constitute the Agreement.
- 18) **GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of Arizona. All judicial proceedings arising from or related to this Agreement shall be instituted and

maintained in a court of competent jurisdiction in Yuma County, Arizona (or, as may be appropriate, in the United States District Court for the District of Arizona, if, and only if, a Yuma County court lacks jurisdiction). The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action.

19) **CONFLICT OF INTEREST**. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein.

20) **NOTICES**. All notices and correspondence between the Parties regarding this Agreement shall be in writing and shall be deemed given if delivered in person, by electronic mail with delivery receipt, or ten (10) days after mailing, by United States registered or certified mail, postage prepaid and addressed to persons below. In the event the contact information or notice destination of a Party changes, it shall notify the other Party of the new information, in writing, within five (5) business days.

City of Yuma Fire Department Attn: PSD 1 City Plaza Yuma, AZ 85364 928-373-4877	Rural Metro Fire Department, Inc 15410 US 231 Union Grove, AL 35175
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21) **ASSIGNMENT**. This contract is not assignable unless both Parties mutually consent otherwise in writing. The requirements of this contract are binding upon the heirs, executors, administrators, successors and assigns of both Parties.

22) **EMPLOYMENT ELIGIBILITY**. Each Party warrants, and shall require its subcontractors to warrant, that it follows all federal immigration laws and regulations that relate to its employees and with A.R.S. §§ 41-4401 and 23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of this Agreement. The Parties retain the legal right to inspect the papers of any Party or subcontractor employee who works on this Agreement to ensure that the other Party or its subcontractors are complying with this warranty.

23) **RIGHTS/OBLIGATIONS OF PARTIES ONLY**. The terms of this Agreement are intended only to define the respective rights and obligations of the Parties. This Agreement shall not create any rights or duties in favor of any potential third-party beneficiary or other person, agency, or organization.

24) **IMPOSSIBILITY**. No Party to this Agreement shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any reasons beyond its control, including without limitation, global or national pandemics, acts of God or of the public enemy, flood or storm, strikes, court decision order, or statutory regulation or rule of any federal, state or local government, or any agency thereof.

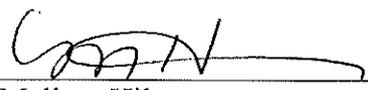
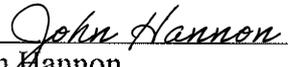
25) **ATTORNEY'S FEES**. In the event any action, suit or proceeding is brought for failure to observe

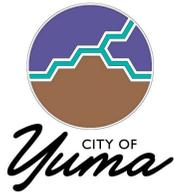
any of the terms, covenants, or provisions of this Agreement, the prevailing Party shall be entitled to all litigation, arbitration, and collection expenses, including, but not limited to, witness fees, court costs, and reasonable attorney fees.

- 26) **AUTOMATIC INCLUSION.** All applicable Federal, State, and local laws, court orders and decisions, Executive Orders, rules, and regulations not specifically referenced herein are deemed automatically incorporated.
- 27) **AUTHORITY OF SIGNATORIES.** The persons executing this Agreement on behalf of the Parties represent and guarantee they are authorized to do so, on behalf of themselves and the entity they represent. Further representation is made that due diligence has occurred, and all necessary internal procedures and processes, including compliance with the open meeting law where necessary, have been satisfied to legally bind the entity to the terms of this Agreement.

*[Signatures on the Next Page]*

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

<p>City of Yuma</p> <hr/> <p>John D. Simonton City Administrator Date: _____</p>	<p>Rural Metro Fire Department, Inc.</p> <hr/>  <p>Melissa Hilpert Fire Chief, Yuma Operations Date: <u>1/22/2025</u></p>
<p>Yuma Fire Department</p> <hr/> <p>Dustin Fields Fire Chief Date: _____</p>	<p>Rural Metro Fire Department, Inc.</p> <hr/>  <p>John Hannon Chief of Operations Date: <u>1.22.2025 JH</u></p>
<p>ATTEST</p> <hr/> <p>Lynda Bushong City Clerk Date: _____</p>	



# City of Yuma

## City Council Report

**File #:** R2025-028

**Agenda Date:** 4/16/2025

**Agenda #:** 2.

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

**TITLE:**

**Development Fee Deferral: Desert Sky Unit No. 3 Subdivision**

**SUMMARY RECOMMENDATION:**

Authorize an agreement to defer City of Yuma development fees and water and sewer capacity charges for Desert Sky Unit No. 3 Subdivision, and to collect a \$500.00 administrative fee for the three-year deferral agreement. (David Wostenberg) (Engineering)

**STRATEGIC OUTCOME:**

This item supports City Council’s strategic outcome for Respected and Responsible in that it supports and assists the development community to continue providing quality growth within the City.

**REPORT:**

City Administration and staff previously met with the development community regarding local economic activity, particularly that of the construction industry, and determined to recommend to City Council that, upon payment of a \$500.00 deferral fee to cover City costs associated with processing and tracking deferrals, for a period of three years, all development fees, along with sanitary sewer and water capacity charges, would be eligible for deferral until prior to issuance of a certificate of occupancy. The eligibility for deferral is in accordance with the specific terms outlined in the proposed development agreement.

It is anticipated that deferring these development fees and capacity charges will help to stimulate economic activity and retain construction jobs. The deferral is accomplished in accordance with State Statute (A.R.S. § 9 -463.05), through a development agreement.

DS Development Yuma, LLC has requested the deferral agreement for Desert Sky Unit No. 3 Subdivision described in the attached development agreement and corresponding location map.

**FISCAL REQUIREMENTS:**

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

TOTAL \$ 0.00

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

**FISCAL IMPACT STATEMENT:**

NONE

**ADDITIONAL INFORMATION:**

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

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025



SUBJECT PROPERTY

# LOCATION MAP DESERT SKY UNIT NO. 3

CITY OF YUMA  
ENGINEERING DEPARTMENT

Date: 3-7-2025  
SCALE: NTS

NOTE: THIS MAP IS PREPARED TO SHOW  
GENERAL SITE LOCATION ONLY.



Prepared by: JOHN NYE

**RESOLUTION NO. R2025-028**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA,  
ARIZONA, AUTHORIZING AND APPROVING A DEVELOPMENT  
AGREEMENT PERMITTING THE DEFERRAL OF CITY OF YUMA  
DEVELOPMENT FEES AND WATER AND SANITARY SEWER  
CAPACITY CHARGES FOR DESERT SKY UNIT NO. 3 SUBDIVISION**

WHEREAS, the City of Yuma, Arizona desires to obtain those public benefits accruing from the development of property, which benefits include, but are not limited to, the creation and retention of jobs, stimulation of further economic development within the City, increased property tax values based on improvements to be constructed on the property and by retention and generation of additional sales tax revenues through increased business activities; and,

WHEREAS, A.R.S. § 9-463.05(B)(10) permits the deferral of payment of development fees for residential units when supported by appropriate security and included as part of a development agreement; and,

WHEREAS, deferral of payment of development fees and water and sanitary sewer capacity charges until prior to issuance of a certificate of occupancy, will promote economic activity within the City of Yuma and shall constitute sufficient consideration for the deferral.

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

SECTION 1: The deferral of City of Yuma Development Fees, water and sanitary sewer capacity charges is approved in accordance with the terms of the Development Agreement attached as Exhibit A, and by this reference, made part of this Resolution.

SECTION 2: Upon payment to the City of Yuma of the described \$500 administrative fee for Desert Sky Unit No. 3 Subdivision, the City Administrator is authorized and directed to execute the Development Agreement on behalf of the City of Yuma.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

\_\_\_\_\_  
Richard W. Files  
City Attorney

**EXHIBIT A**  
**RESOLUTION NO. R2025-028**  
**DEVELOPMENT AGREEMENT**  
**DESERT SKY UNIT No. 3**

This Development Agreement (“Agreement”), in accordance with the Arizona Revised Statutes (A.R.S.) § 9-500.05, is by and between DS Development Yuma, LLC, an Arizona Limited Liability Company, (“Owner”), as owner of the real property described in the DESERT SKY UNIT No. 3 plat, lots 434 to 571, dated 11/27/2024, recorded as Yuma County Assessor’s Fee #: 2024-28546, and Book 36 of Plats, Page 69, (the “Property”) and the City of Yuma, an Arizona municipal corporation (“City”).

**RECITALS**

WHEREAS, the City desires to obtain those public benefits which accrue from the development of the Property and include (but are not limited to) the creation and retention of jobs, stimulation of further economic development within the City, increased property tax values based on improvements to be constructed on the Property, and by generation of additional sales tax revenues through increased business activity; and,

WHEREAS, A.R.S. § 9-463.05(B)(10) permits the deferral of payment of development fees for residential units when supported by appropriate security and included as part of a development agreement; and,

WHEREAS, for the mutual benefit of both parties, the sufficiency of which is acknowledged, the parties have entered into this Agreement to provide for the deferral of payment of City of Yuma Development Fees and City of Yuma water and sanitary sewer capacity charges upon the terms and conditions contained herein.

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

1. Term. This Agreement shall be effective (the “Effective Date”) upon execution by all of the parties and the payment to the City of a five-hundred-dollar (\$500.00) deferral fee. This Agreement shall expire three (3) years from the Effective Date (the “Expiration Date”) unless the parties mutually agree to an earlier termination.
2. Vesting. Vesting of deferred fees and charges shall accrue on a lot-by-lot basis. To vest the right to deferral, the residential unit must pass the under slab plumbing and building setback inspection (“underground inspection”) within 30 days of the date of issuance of the building permit. Time is of the essence. If the underground inspection is not successfully completed within 30 days of the issuance of the building permit, no right to deferral shall vest, and Owner shall either: (1) be issued a refund of 80% of the cost of the building permit and the building permit shall expire; or (2) all deferral amounts shall immediately be due and payable to the City to prevent the building permit from expiring. At the expiration or termination of this Agreement, any vested lot shall continue to enjoy the deferral benefit unless construction is abandoned by Owner. On the Expiration Date, the deferral benefit shall expire for any non-vested lot.

3. Deferral Benefits. Deferral of certain described City of Yuma Development Fees and water and sewer capacity charges shall be available to the Property throughout the term of this Agreement. An expired building permit shall not prohibit Owner from reapplying for the deferral benefit provided that a new building permit is applied for. When vested in accordance with paragraph 2 above, the deferral benefit shall include:
- a. Deferral of Payment of Citywide Development Fees and Water and Sewer Capacity Charges. For any platted lot within the Property, payment of City of Yuma Development Fees (the parks and recreational facilities development fee, the police facilities development fee, the fire facilities development fee, the general government facilities development fee, and the streets facilities development fee), and water and sewer capacity charges may, upon written request on a form provided by City staff, be deferred from the time of application for a building permit.
  - b. Application. At the time of application for the first building permit on the Property, Owner shall submit and sign a “Request for Deferral of City of Yuma Development fees and/or Water and Sewer Capacity Charges” (City of Yuma Form J) together with payment of a five hundred (\$500.00) dollar deferral fee (which shall cover the deferral costs for all of the Property for the term of this Agreement), payable to the City of Yuma. The deferred amount shall be calculated at the rate in effect at the time of construction permit or water meter issuance, signed by 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 of City of Yuma Development Fees and Water and Sewer Capacity Charges, together with this Development Agreement, shall serve as the security required by statute for payment thereof. During the Term of this Agreement, any subsequent building permit application on the Property for which deferral is sought shall require Owner’s signature on a City of Yuma Form J.
  - c. Period of Deferral. Payment in full of the deferred fees and charges shall be made to the City of Yuma no later than the date of issuance of any certificate of occupancy, whether temporary or otherwise. In the case of residential property, in the event that Owner does not request a residential certificate of occupancy, then the “date of final inspection” shall be substituted for “date of issuance of a certificate of occupancy.”
  - d. Deferred Amount Due Upon Sale. Notwithstanding any sales contract or agreement to the contrary between Owner and the purchaser of any lot, part or portion of the Property which has a vested deferral, Owner shall pay all deferred amounts to the City prior to recording any deed transferring ownership or entering into a lease of the lot.
4. Notice. All notices, demands or other communications must be in writing and are deemed duly delivered upon personal delivery, or as of the second business day after

mailing by United States mail, postage prepaid, registered or certified, return receipt requested, addressed as follows:

OWNER:

Brian L. Hall, Manager  
DS Development Yuma, LLC  
3064 S Ave B  
Yuma AZ, 85364

CITY:

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

If either party changes address, written notice of the change of address must be given to the other party. Notice of change of address is deemed effective five (5) days after mailing by the party changing address.

5. Successors and Assigns. This Agreement is binding upon the heirs, executors, administrators, successors, and assigns of both Parties.
6. Waiver. If either party fails to require the other party to perform any provision of this Agreement, that failure does not prevent the other party from later enforcing that provision. Neither party is released from any responsibilities or obligations imposed by law or this Agreement if the other party fails to exercise a right or remedy. No waiver of any provisions of this Agreement shall be binding upon either party unless in writing signed by both parties.
7. Governing Law and Venue. The laws of the State of Arizona govern this Agreement as to validity, interpretation, and performance. The parties shall institute and maintain any legal action or other judicial proceeding arising from this Agreement in a court of competent jurisdiction in Yuma County, Arizona.
8. Severability. If any terms, parts, or provisions of this Agreement are for any reason invalid or unenforceable, the remaining terms, parts, or provisions are nevertheless valid and enforceable.
9. Costs and Attorney Fees. If either party brings an action or proceeding for failure to observe any of the terms or provisions of this Agreement, the prevailing party shall recover, as part of such action or proceeding, all reasonable costs, expenses, and attorney fees as determined by the Court and not by a jury.
10. Integration. This Agreement contains the entire agreement between the parties, and no oral or written statements, promises, or inducements made by either party or its agents not contained or specifically referred to in this Agreement is valid or binding. All

modifications to this Agreement must be in writing, signed and endorsed by the parties.

- 11. Recordation. The City shall record a copy of this Agreement no later than ten (10) days from date of entering into this Agreement pursuant to A.R.S. § 9-500.05.
- 12. Estoppel Certificate. The parties agree that, upon not less than twenty one (21) business days prior written request from a party to this Agreement, a requested party shall execute, acknowledge and deliver to the party making such request a written statement certifying to the current status of the Agreement, including whether or not, a party is in default of any obligation or duty set forth within the Agreement. Any such certificate may be relied on by a prospective purchaser of any lot within the Property, or any prospective lender.
- 13. No Partnership. This Agreement does not create and is not intended to imply a partnership or joint venture between Owner and City.
- 14. Good Standing; Authority. Each of the parties represents and warrants to the other that it is duly formed and validly existing under the laws of Arizona and that the individual(s) executing this Agreement on behalf of their respective party is authorized and empowered to bind the party on whose behalf each such individual is signing.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

CITY OF YUMA:

OWNER: DS Development Yuma, LLC

By: \_\_\_\_\_  
John D. Simonton  
Acting City Administrator

By: \_\_\_\_\_  
Brian L. Hall  
Manager  
DS Development Yuma, LLC

ATTEST:

By: \_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Richard W. Files  
City Attorney

**ACKNOWLEDGEMENT**

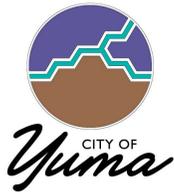
State of \_\_\_\_\_ )  
 ) ss  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ of \_\_\_\_\_, 2025 by Brian L. Hall, manager of DS Development Yuma, LLC, an Arizona limited liability company, on behalf of the company.

In witness whereof, I have set my hand and official seal

My commission expires:

By: \_\_\_\_\_  
Notary Public



# City of Yuma

## City Council Report

**File #:** R2025-029

**Agenda Date:** 4/16/2025

**Agenda #:** 3.

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

**TITLE:**

**Development Fee Deferral: Saguaro Unit No. 5 Subdivision**

**SUMMARY RECOMMENDATION:**

Authorize an agreement to defer City of Yuma development fees and water and sewer capacity charges for Saguaro Unit No. 5 Subdivision, and to collect a \$500.00 administrative fee for the three-year deferral agreement. (David Wostenberg) (Engineering)

**STRATEGIC OUTCOME:**

This item supports the City Council's strategic outcome for Respected and Responsible in that it supports and assists the development community to continue providing quality growth within the City.

**REPORT:**

City Administration and staff previously met with the development community regarding local economic activity, particularly that of the construction industry, and determined to recommend to City Council that, upon payment of a \$500.00 deferral fee to cover City costs associated with processing and tracking deferrals, for a period of three years, all development fees, along with sanitary sewer and water capacity charges, would be eligible for deferral until prior to issuance of a certificate of occupancy. The eligibility for deferral is in accordance with the specific terms outlined in the proposed development agreement.

It is anticipated that deferring these development fees and capacity charges will help to stimulate economic activity and retain construction jobs. The deferral is accomplished in accordance with State Statute (A.R.S. §9-463.05), through a development agreement.

SD Development Yuma, LLC has requested the deferral agreement for Saguaro Unit No. 5 Subdivision described in the attached development agreement and corresponding location map.

**FISCAL REQUIREMENTS:**

CITY FUNDS:	\$ 0.00	BUDGETED:	\$ 0.00
-------------	---------	-----------	---------

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

**FISCAL IMPACT STATEMENT:**

NONE

**ADDITIONAL INFORMATION:**

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

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025



S 00°07'17" W 1114.71'

56.51'  
N0°13'4"W 144°30'20"E

18.0'

370.0'

N0°13'4"W

N 00°13'04" W 2655.10'

S 89°52'43" E 793.35'



SUBJECT PROPERTY

# LOCATION MAP SAGUARO UNIT NO.5

CITY OF YUMA  
ENGINEERING DEPARTMENT

Date: 3-7-2025

SCALE: NTS

Prepared by: JOHN NYE

NOTE: THIS MAP IS PREPARED TO SHOW  
GENERAL SITE LOCATION ONLY.



**RESOLUTION NO. R2025-029**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND APPROVING A DEVELOPMENT AGREEMENT PERMITTING THE DEFERRAL OF CITY OF YUMA DEVELOPMENT FEES AND WATER AND SANITARY SEWER CAPACITY CHARGES FOR SAGUARO UNIT NO. 5 SUBDIVISION**

WHEREAS, the City of Yuma, Arizona desires to obtain those public benefits accruing from the development of property, which benefits include, but are not limited to, the creation and retention of jobs, stimulation of further economic development within the City, increased property tax values based on improvements to be constructed on the property and by retention and generation of additional sales tax revenues through increased business activities; and,

WHEREAS, A.R.S. § 9-463.05(B)(10) permits the deferral of payment of development fees for residential units when supported by appropriate security and included as part of a development agreement; and,

WHEREAS, deferral of payment of development fees and water and sanitary sewer capacity charges until prior to issuance of a certificate of occupancy, will promote economic activity within the City of Yuma and shall constitute sufficient consideration for the deferral.

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

SECTION 1: The deferral of City of Yuma Development Fees, water and sanitary sewer capacity charges is approved in accordance with the terms of the Development Agreement attached as Exhibit A, and by this reference, made part of this Resolution.

SECTION 2: Upon payment to the City of Yuma of the described \$500 administrative fee for SAGUARO UNIT No. 5 Subdivision, the City Administrator is authorized and directed to execute the Development Agreement on behalf of the City of Yuma.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

\_\_\_\_\_  
Richard W. Files  
City Attorney

**EXHIBIT A**  
**RESOLUTION NO. R2025-029**  
**DEVELOPMENT AGREEMENT**  
**SAGUARO UNIT No. 5**

This Development Agreement (“Agreement”), in accordance with the Arizona Revised Statutes (A.R.S.) § 9-500.05, is by and between SD Development Yuma, LLC, an Arizona Limited Liability Company, (“Owner”), as owner of the real property described in the SAGUARO UNIT No. 5 plat, lots 545 to 663, dated 9/20/2024, recorded as Yuma County Assessor’s Fee #: 2024-22525, and Book 36 of Plats, Page 47, (the “Property”) and the City of Yuma, an Arizona municipal corporation (“City”).

**RECITALS**

WHEREAS, the City desires to obtain those public benefits which accrue from the development of the Property and include (but are not limited to) the creation and retention of jobs, stimulation of further economic development within the City, increased property tax values based on improvements to be constructed on the Property, and by generation of additional sales tax revenues through increased business activity; and,

WHEREAS, A.R.S. § 9-463.05(B)(10) permits the deferral of payment of development fees for residential units when supported by appropriate security and included as part of a development agreement; and,

WHEREAS, for the mutual benefit of both parties, the sufficiency of which is acknowledged, the parties have entered into this Agreement to provide for the deferral of payment of City of Yuma Development Fees and City of Yuma water and sanitary sewer capacity charges upon the terms and conditions contained herein.

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

1. Term. This Agreement shall be effective (the “Effective Date”) upon execution by all of the parties and the payment to the City of a five-hundred-dollar (\$500.00) deferral fee. This Agreement shall expire three (3) years from the Effective Date (the “Expiration Date”) unless the parties mutually agree to an earlier termination.
2. Vesting. Vesting of deferred fees and charges shall accrue on a lot-by-lot basis. To vest the right to deferral, the residential unit must pass the under slab plumbing and building setback inspection (“underground inspection”) within 30 days of the date of issuance of the building permit. Time is of the essence. If the underground inspection is not successfully completed within 30 days of the issuance of the building permit, no right to deferral shall vest, and Owner shall either: (1) be issued a refund of 80% of the cost of the building permit and the building permit shall expire; or (2) all deferral amounts shall immediately be due and payable to the City to prevent the building permit from expiring. At the expiration or termination of this Agreement, any vested lot shall continue to enjoy the deferral benefit unless construction is abandoned by Owner. On the Expiration Date, the deferral benefit shall expire for any non-vested lot.

3. Deferral Benefits. Deferral of certain described City of Yuma Development Fees and water and sewer capacity charges shall be available to the Property throughout the term of this Agreement. An expired building permit shall not prohibit Owner from reapplying for the deferral benefit provided that a new building permit is applied for. When vested in accordance with paragraph 2 above, the deferral benefit shall include:
- a. Deferral of Payment of Citywide Development Fees and Water and Sewer Capacity Charges. For any platted lot within the Property, payment of City of Yuma Development Fees (the parks and recreational facilities development fee, the police facilities development fee, the fire facilities development fee, the general government facilities development fee, and the streets facilities development fee), and water and sewer capacity charges may, upon written request on a form provided by City staff, be deferred from the time of application for a building permit.
  - b. Application. At the time of application for the first building permit on the Property, Owner shall submit and sign a “Request for Deferral of City of Yuma Development fees and/or Water and Sewer Capacity Charges” (City of Yuma Form J) together with payment of a five hundred (\$500.00) dollar deferral fee (which shall cover the deferral costs for all of the Property for the term of this Agreement), payable to the City of Yuma. The deferred amount shall be calculated at the rate in effect at the time of construction permit or water meter issuance, signed by 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 of City of Yuma Development Fees and Water and Sewer Capacity Charges, together with this Development Agreement, shall serve as the security required by statute for payment thereof. During the Term of this Agreement, any subsequent building permit application on the Property for which deferral is sought shall require Owner’s signature on a City of Yuma Form J.
  - c. Period of Deferral. Payment in full of the deferred fees and charges shall be made to the City of Yuma no later than the date of issuance of any certificate of occupancy, whether temporary or otherwise. In the case of residential property, in the event that Owner does not request a residential certificate of occupancy, then the “date of final inspection” shall be substituted for “date of issuance of a certificate of occupancy.”
  - d. Deferred Amount Due Upon Sale. Notwithstanding any sales contract or agreement to the contrary between Owner and the purchaser of any lot, part or portion of the Property which has a vested deferral, Owner shall pay all deferred amounts to the City prior to recording any deed transferring ownership or entering into a lease of the lot.
4. Notice. All notices, demands or other communications must be in writing and are deemed duly delivered upon personal delivery, or as of the second business day after

mailing by United States mail, postage prepaid, registered or certified, return receipt requested, addressed as follows:

OWNER:

Brian L. Hall, Manager  
SD Development Yuma, LLC  
3064 S Ave B  
Yuma AZ, 85364

CITY:

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

If either party changes address, written notice of the change of address must be given to the other party. Notice of change of address is deemed effective five (5) days after mailing by the party changing address.

5. Successors and Assigns. This Agreement is binding upon the heirs, executors, administrators, successors, and assigns of both Parties.
6. Waiver. If either party fails to require the other party to perform any provision of this Agreement, that failure does not prevent the other party from later enforcing that provision. Neither party is released from any responsibilities or obligations imposed by law or this Agreement if the other party fails to exercise a right or remedy. No waiver of any provisions of this Agreement shall be binding upon either party unless in writing signed by both parties.
7. Governing Law and Venue. The laws of the State of Arizona govern this Agreement as to validity, interpretation, and performance. The parties shall institute and maintain any legal action or other judicial proceeding arising from this Agreement in a court of competent jurisdiction in Yuma County, Arizona.
8. Severability. If any terms, parts, or provisions of this Agreement are for any reason invalid or unenforceable, the remaining terms, parts, or provisions are nevertheless valid and enforceable.
9. Costs and Attorney Fees. If either party brings an action or proceeding for failure to observe any of the terms or provisions of this Agreement, the prevailing party shall recover, as part of such action or proceeding, all reasonable costs, expenses, and attorney fees as determined by the Court and not by a jury.
10. Integration. This Agreement contains the entire agreement between the parties, and no oral or written statements, promises, or inducements made by either party or its agents not contained or specifically referred to in this Agreement is valid or binding. All

modifications to this Agreement must be in writing, signed and endorsed by the parties.

- 11. Recordation. The City shall record a copy of this Agreement no later than ten (10) days from date of entering into this Agreement pursuant to A.R.S. § 9-500.05.
- 12. Estoppel Certificate. The parties agree that, upon not less than twenty one (21) business days prior written request from a party to this Agreement, a requested party shall execute, acknowledge and deliver to the party making such request a written statement certifying to the current status of the Agreement, including whether or not, a party is in default of any obligation or duty set forth within the Agreement. Any such certificate may be relied on by a prospective purchaser of any lot within the Property, or any prospective lender.
- 13. No Partnership. This Agreement does not create and is not intended to imply a partnership or joint venture between Owner and City.
- 14. Good Standing; Authority. Each of the parties represents and warrants to the other that it is duly formed and validly existing under the laws of Arizona and that the individual(s) executing this Agreement on behalf of their respective party is authorized and empowered to bind the party on whose behalf each such individual is signing.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

CITY OF YUMA:

OWNER: SD Development Yuma, LLC

By: \_\_\_\_\_  
John D. Simonton  
Acting City Administrator

By: \_\_\_\_\_  
Brian L. Hall  
Manager  
SD Development Yuma, LLC

ATTEST:

By: \_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Richard W. Files  
City Attorney

**ACKNOWLEDGEMENT**

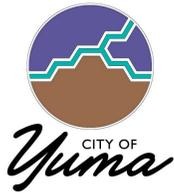
State of \_\_\_\_\_ )  
 ) ss  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ of \_\_\_\_\_, 2025 by Brian L. Hall, manager of SD Development Yuma, LLC, an Arizona limited liability company, on behalf of the company.

In witness whereof, I have set my hand and official seal

My commission expires:

By: \_\_\_\_\_  
Notary Public



# City of Yuma

## City Council Report

**File #:** R2025-030

**Agenda Date:** 4/16/2025

**Agenda #:** 4.

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

**TITLE:**

**Preannexation Development Agreement: Crossroads Mission**

**SUMMARY RECOMMENDATION:**

Authorize the City Administrator to execute a Preannexation Development Agreement with Crossroads Mission. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

**STRATEGIC OUTCOME:**

Approval of this Preannexation Development Agreement will facilitate the development of the properties furthering the City Council’s strategic outcome of Safe and Prosperous and Connected and Engaged.

**REPORT:**

The Crossroads Mission (Owner) owns the properties located at the northeast corner of Walnut Avenue and 11<sup>th</sup> Street (APN 665-12-108 and 665-12-107) (Properties). The Owner has requested a Preannexation Development Agreement to connect to City of Yuma services. The Properties are currently undeveloped, and the owner’s intent is to develop a new Crossroads Mission Men’s Shelter. In accordance with City policy, to receive City of Yuma services, annexation or a preannexation agreement is required. Since annexation of the Properties is not possible at the current time, a Preannexation Development Agreement will be executed, kept on file, and utilized at such time that a larger annexation can be brought forward.

The attached resolution authorizes a Preannexation Development Agreement with Crossroads Mission, for the Properties shown on the location map attached to the Agreement.

**FISCAL REQUIREMENTS:**

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

**FISCAL IMPACT STATEMENT:**

NOT APPLICABLE

**ADDITIONAL INFORMATION:**

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

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025

**RESOLUTION NO. R2025-030**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND APPROVING THE EXECUTION OF A PREANNEXATION DEVELOPMENT AGREEMENT WITH CROSSROADS MISSION, FOR ASSESSOR PARCEL NUMBERS 665-12-107 AND 665-12-108 LOCATED AT THE NORTHEAST CORNER OF WALNUT AVENUE AND 11TH STREET**

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

WHEREAS, the owners of certain real property identified as APN 665-12-107 and 665-12-108 (the Property) desire to annex the Property into the municipal boundaries of the City, but the Property does not meet the statutory annexation requirements at this time; and,

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

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

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

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

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

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

**EXHIBIT A  
RESOLUTION NO. R2025-030**

**PREANNEXATION DEVELOPMENT AGREEMENT**

This PREANNEXATION DEVELOPMENT AGREEMENT (“Agreement”), made and entered into pursuant to Arizona Revised Statutes (A.R.S.) § 9-500.05, is by and between Crossroads Mission (“Owner”), as the owner of the real property located at the northeast corner of Walnut Avenue and 11<sup>th</sup> Street identified as APN 665-12-107 and 665-12-108, more particularly described and depicted in **Exhibit 1** attached and incorporated by reference (the “Property”), and the City of Yuma (“City”), an Arizona municipal corporation. Owner and City shall be referred to collectively as the “Parties” and individually as a “Party.”

**RECITALS**

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

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

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

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

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

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

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

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

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

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

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

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

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

6.1 Corner Triangle Dedications. Owner shall dedicate a corner triangle with 15' legs at the northwest corner of Arizona Avenue and 11<sup>th</sup> Street, being the southeast corner of Parcel B in the Land Division for Crossroads mission (LDP24-23) and a corner triangle with 15' legs at the northeast corner of Walnut Avenue and 11<sup>th</sup> Street, being the southwest corner of Parcel B in the Land Division for Crossroads mission (LDP24-23) to the City of Yuma via Warranty Deed.

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

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

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

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

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

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

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

9. City and Owner Cooperation.

9.1 Cooperation in Development Approvals. Subject to the terms of this Agreement and compliance with Applicable Laws including without limitation City’s compliance with all required notice and

public hearing requirements, City and Owner will cooperate reasonably in processing the approval or issuance of any permits, plans, specifications, plats or other development approvals requested by Owner in connection with development of the Property. If developed in Yuma County, written City approval of all such permits, plans, specifications, plats or other development approvals shall be required.

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

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

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

To Owners:  
Crossroads Mission  
944 S. Arizona Avenue  
Yuma, AZ 85364

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

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

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

11.1 Remedies. If the default is not corrected within the time periods described in Section 11 above,

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

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

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

12. Owner Representations. Owner represents and warrants that:

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

consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects.

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

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

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

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

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

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

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

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

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

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

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

16. Attorneys' Fees. In the event of commencement of a legal action in an appropriate forum by a Party to enforce any covenant or any of such Party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing Party in any such action shall be entitled to reimbursement

of its reasonable attorneys' fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the Party and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

17. Miscellaneous.

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

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

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

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

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

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

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

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

17.9 Further Acts. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters

contemplated by this Agreement or confirm the status of (i) this Agreement as in full force and effect, and (ii) the performance of the obligations hereunder at any time.

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

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

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

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

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

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

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**CITY:**  
City of Yuma

**OWNER:**  
Crossroads Mission, An Arizona Nonprofit Corporation

By \_\_\_\_\_  
John D. Simonton  
Acting City Administrator

By \_\_\_\_\_  
Myra Garlit  
Chief Executive Officer

ATTEST:

By \_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
Richard W. Files  
City Attorney

**ACKNOWLEDGEMENTS**

State of Arizona        )  
                                  ) ss  
County of Yuma        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2025 by Myra Garlit, on behalf of Crossroads Mission.

\_\_\_\_\_  
NOTARY PUBLIC

COMMISSION EXPIRATION:

\_\_\_\_\_

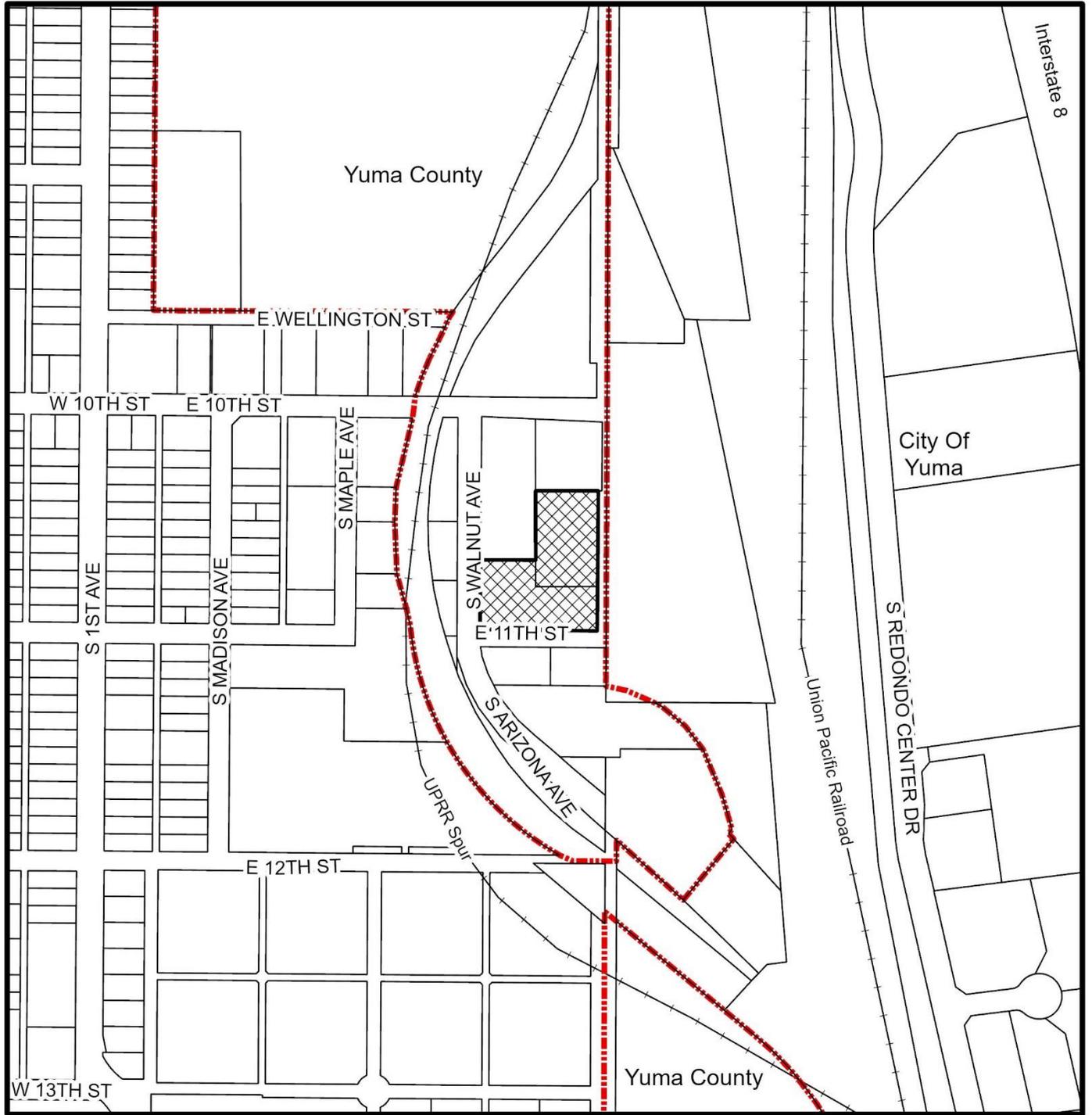
## **EXHIBIT 1**

### Legal Descriptions and Depictions of Properties, Lot A and Lot B

That portion of the Southeast Quarter of the Northeast Quarter of Section 28, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, Arizona and being more particularly described as follows:

Parcels "A" and "B" as per "**Land Division for Crossroads Mission (LDP24-23)**" plat as recorded in the Yuma County Recorder's Office, Yuma County, Yuma Arizona, in Book 36, Page 84. Fee# 2025-01686, Dated: 01-23-2025.

Containing 99,573.97 square feet or 2.29 acres more or less.



# LOCATION MAP



LOCATION OF SUBJECT PROPERTY

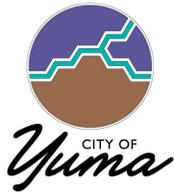


Prepared by: DG  
 Checked by: AD



Date: 1/28/2025  
 Revised: 2/12/2025  
 Revised:

Case #:  
 AGR-43620-2025



# City of Yuma

## City Council Report

**File #:** R2025-031

**Agenda Date:** 4/16/2025

**Agenda #:** 5.

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

**TITLE:**

**Intent to Create Municipal Improvement District No. 128: Desert Sands Units 4-6**

**SUMMARY RECOMMENDATION:**

Approve the creation of Municipal Improvement District (MID) No. 128 to serve Desert Sands Units 4-6 located at the northwest corner of 48<sup>th</sup> Street Avenue 8E. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville).

**STRATEGIC OUTCOME:**

This MID assists in furthering the City Council’s strategic outcomes as it relates to Respected and Responsible and Active and Appealing. The establishment of a MID is a fiscally responsible measure intended to provide long-term maintenance for subdivision landscaping resulting in an appealing environment for neighborhood residents.

**REPORT:**

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. Ideally, the new tax base for that newly developed neighborhood would offset the costs of ongoing maintenance to serve that neighborhood. It is now known that the current revenue streams from property and sales taxes generated from the neighborhoods benefiting from the landscape amenities do not cover the costs of this maintenance and Public Works must utilize other portions of its budget to subsidize the maintenance costs to adequately meet the maintenance needs of these new developments. Additionally, many of the residents in these developments would like extra services or specialized services that Public Works is unable to provide, leaving the residents feeling as if they have little control over the maintenance and beautification of their neighborhood.

As an alternative to this existing situation, a statutory Municipal Improvement District (MID) can 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 they gain a direct decision-making role in the level of maintenance within their community. The City will outsource maintenance to a 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 widely used in other Arizona cities and towns. Often, the cities and towns in the metro Phoenix area use MIDs 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 Sands Units 4-6 development. In this situation, in which all the property owners have presented a Petition for Formation, the ordinary publication and posting periods are not required by law. Also attached is the formal Resolution of Intention for Creation of City of Yuma Municipal Improvement District No. 128: Desert Sands Units 4-6, which is located at the northwest corner of 48<sup>th</sup> Street and Avenue 8E.

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 May 7, 2025, regular City Council meeting after the creation of this MID.

Adopting this Resolution authorizes the creation of Municipal Improvement District No. 128 to serve Desert Sands Units 4-6.

**FISCAL REQUIREMENTS:**

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

TOTAL \$ 0.00

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

**FISCAL IMPACT STATEMENT:**

NONE

**ADDITIONAL INFORMATION:**

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

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025

**RESOLUTION NO. R2025-031**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, DECLARING ITS INTENTION TO CREATE MUNICIPAL IMPROVEMENT DISTRICT NO. 128, SERVING DESERT SANDS UNITS 4-6, TO OPERATE, MAINTAIN AND REPAIR LANDSCAPING IMPROVEMENTS INCLUDED WITHIN, NEAR AND ADJACENT TO THE RETENTION AND DETENTION BASINS AND PARKINGS AND PARKWAYS AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES OF DESERT SANDS UNITS 4-6**

WHEREAS, pursuant to Title 48, Chapter 4, Article 2, Arizona Revised Statutes, a Municipal Improvement District (MID) may be formed for the sole purpose of the operation maintenance, repair and improvements of pedestrian malls, off-street parking facilities, retention and detention basins, and parkings and parkways; and,

WHEREAS, a petition has been received by Mayor and City Council of the City of Yuma to form a MID to provide operation, maintenance and repair of the landscape improvements within, near and adjacent to the retention and detention basins and the parkings and parkways and related improvements in the Desert Sands Units 4-6 housing development; and,

WHEREAS, the formation of a MID for the operation, maintenance and repair of the landscape improvements within, near, and adjacent to retention and detention basins and the parkings and parkways and related improvements serving Desert Sands Units 4-6 will provide a dedicated stream of funding for the maintenance of those improvements, neighborhood decisions on those improvements, and will privatize the maintenance of those improvements; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona, find and declare that the formation of the MID to provide the operation, maintenance and repair of the landscape improvements within, near, and adjacent to the retention and detention basins and the parkings and parkways and related improvements in the Desert Sands Units 4-6 housing development to be of more than local or ordinary public benefit, and not a general public benefit, and further that the expenses of said operation, maintenance, and repair shall be Desert Sands Units 4-6; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona, find and declare that the operation, maintenance, and repair of landscaping improvements in the retention and detention basins and the parkings and parkways and related improvements in the District is incidental to the maintenance and preservation of the retention and detention basins and the parkings and parkways and related improvements, has aesthetic value, and maintains and increases the value of property within the District; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona, find and declare that the operation, maintenance, and repair of landscaping improvements within, near or adjacent to the retention and detention basins and the parkings and parkways and related improvements in the MID preserves and promotes the health, safety, and welfare of those citizens living within the District as well as preservation of the streets and parkways in the District which may be adversely impacted by drainage; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona find and declare that the operation, maintenance, and repair of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impact of light, air, and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens living within the District.

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

SECTION 1: The petition to form a MID for Desert Sands Units 4-6 purporting to be signed by all of the real property owners within the proposed District attached as Exhibit "A" is hereby accepted as provided in A.R.S. § 48-574(C).

SECTION 2: MID No. 128, serving Desert Sands Units 4-6 to operate, maintain and repair landscaping improvements included within, near, and adjacent to the retention and detention basins and parkings and parkways and related facilities together with appurtenant structures of Desert Sands Units 4-6, is hereby created.

SECTION 3: The expenses of MID No. 128 shall be assessed to the several properties within the MID as provided for in A.R.S. § 48-574(D)(2), in which City Council shall make annual statements and estimates of the expenses of the MID which shall be provided for by the levy and collection of the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot.

SECTION 4: No sooner than fifteen (15) calendar days after this Resolution is adopted, City staff shall present a map of the boundary for MID No. 128 and a diagram for MID No. 128 to Mayor and City Council for consideration to declare an intention to order improvements to MID No. 128 as provided in A.R.S. § 48-576.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

**PETITION, WAIVER AND CONSENT TO FORMATION  
OF A MUNICIPAL IMPROVEMENT DISTRICT  
BY THE CITY OF YUMA**

128

\_\_\_\_\_  
MID#

Desert Sands Units 4-6

\_\_\_\_\_  
Subdivision Name

To: Honorable Mayor and  
Honorable Councilmembers  
City of Yuma, Arizona

Pursuant to Arizona Revised Statutes (“A.R.S.”) §48-574, the undersigned property owner respectfully petitions the Mayor and City Council of the City of Yuma, Arizona (the “City Council”) to order the formation of a Municipal Improvement District (the “District”) under A.R.S., Title 48, Chapter 4, Article 2. In support of this petition, the undersigned agrees to waive certain rights under Arizona Law and to consent to the formation and completion of the District.

1. Area of District. The proposed District is described by a diagram and by a legal description on Exhibit “A” that is attached hereto and incorporated herein by reference.
2. Ownership. The undersigned (is) (are) the sole owner(s) of the real property within the proposed District (the “Petitioner(s)”) including any required public dedications of property.
3. Purpose. The District is proposed to be formed for the purpose of the operation, maintenance, repair and improvements of landscape, irrigation, and hardscape in retention basins, parkways and parkings within the proposed District.
4. Public Convenience and Necessity. The necessity for the proposed District is for the operation, maintenance, repair and improvements of landscape, irrigation, and hardscape in retention basins, parkways and parkings within the proposed District by the levying of special assessments in the proposed District.
5. Waiver and Consent. The Petitioners, with full knowledge of their rights being waived hereunder, hereby expressly waive all of the following:
  - (a) Any and all irregularities, illegalities or deficiencies which may exist in the acts or proceedings resulting in the adoption of the Resolution of Intention and the Resolution Ordering the Work relating to the District.
  - (b) Any necessity for publication and posting of the Resolution of Intention and the Notice of Proposed Improvements pursuant to A.R.S §48-578.
  - (c) All rights to petition to dissolve the district pursuant to A.R.S. §48-574(N).
  - (d) All protest rights whatsoever under A.R.S. §48-579(A) and (B), as amended.

- (e) All objections to the filing of and legislative adoption by the City Council of the plans and specifications, the Engineer's estimate and the Assessment Diagram, all of which provide for the completion of the District.
- (f) It is the intent of the undersigned Petitioners that items (a) through (e) above shall be binding on all successors and assigns and shall run with the land.

Further, the improvements described above are of more than local or ordinary public benefit, and not a general public benefit.

IN WITNESS WHEREOF, the parties have executed this Petition and Waiver Agreement as of \_\_\_\_\_, 20\_\_\_\_\_.

[SIGNATURES ON FOLLOWING PAGES]

**“Property Owner”**

Property Tax Parcel Numbers: 197-15-013

By: *[Signature]*

Name: Brian Hall

Title: CEO

Address: 3064 S Ave B Yuma AZ

Date: 3/21/2025

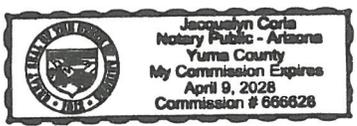
(ACKNOWLEDGMENT)

STATE OF Arizona )  
 ) ss.  
COUNTY OF Yuma )

This instrument was acknowledged before me on March 21, 2025  
by Brian Hall, as Manager of \_\_\_\_\_, a(n) \_\_\_\_\_,  
\_\_\_\_\_ on behalf of the \_\_\_\_\_.

*Jackie C.*  
Notary Public in and for the State of AZ

(affix notary seal here)



[SIGNATURES CONTINUE ON FOLLOWING PAGES]

**“Property Owner”**

Property Tax Parcel Numbers: 197-15-009

By: 

Name: Brian Hall

Title: CEO

Address: 3064 S Ave B Yuma

Date: 3/21/2025

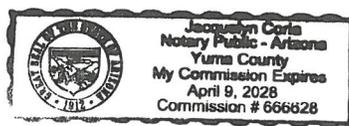
(ACKNOWLEDGMENT)

STATE OF Arizona )  
 ) ss.  
COUNTY OF Yuma )

This instrument was acknowledged before me on March 21, 2025  
by Brian Hall, as Manager of Bear & Heil Trust, a(n) \_\_\_\_\_,  
\_\_\_\_\_ on behalf of the \_\_\_\_\_ 12-1-2005

Jackie C.  
Notary Public in and for the State of AZ

(affix notary seal here)



[SIGNATURES CONTINUE ON FOLLOWING PAGES]

**ACCEPTED AND APPROVED BY:**

“City”

CITY OF YUMA,  
an Arizona municipal corporation

\_\_\_\_\_  
Douglas J. Nicholls, Mayor

ATTEST:

\_\_\_\_\_  
Lynda Bushong, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF YUMA    )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_,  
by Douglas J. Nicholls, the Mayor of the CITY OF YUMA, an Arizona municipal corporation, on  
behalf of the City of Yuma.

\_\_\_\_\_  
Notary Public in and for the State of Arizona

(affix notary seal here)

# **EXHIBIT “A”**

**Desert Sands Unit Nos. 4, 5 & 6**  
**LEGAL DESCRIPTION**

That portion of Section 15, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the East quarter corner of said Section 15;

Thence South 00°13'51" East along the East line of the Southeast quarter of said Section 15 a distance of 1746.00 feet to the TRUE POINT OF BEGINNING;

Thence continuing South 00°13'51" East along the East line of the Southeast quarter of said Section 15 a distance of 919.67 feet to the Southeast corner of the Southeast quarter of said Section 15;

Thence North 89°52'34" West along the South line of the Southeast quarter of said Section 15 a distance of 2651.55 feet to the Southwest corner of the Southeast quarter of said Section 15;

Thence North 00°13'04" West along the West line of the Southeast quarter of said Section 15 a distance of 1272.27 feet;

Thence North 89°46'56" East a distance of 58.00 feet;

Thence North 44°46'33" East a distance of 35.36 feet;

Thence North 89°46'09" East a distance of 62.31 feet;

Thence South 45°13'51" East a distance of 21.21 feet;

Thence North 89°46'09" East a distance of 58.00 feet;

Thence North 44°46'09" East a distance of 21.21 feet;

Thence North 00°13'51" West a distance of 58.00 feet;

Thence North 45°13'51" West a distance of 21.21 feet;

Thence North 00°13'51" West a distance of 200.00 feet;

Thence North 44°46'09" East a distance of 21.21 feet;

Thence North 00°13'51" West a distance of 58.00 feet;

Thence North  $45^{\circ}13'51''$  West a distance of 21.21 feet;  
Thence North  $00^{\circ}13'51''$  West a distance of 97.00 feet;  
Thence North  $89^{\circ}46'09''$  East a distance of 858.09 feet;  
Thence North  $00^{\circ}13'51''$  West a distance of 97.00 feet;  
Thence North  $89^{\circ}46'09''$  East a distance of 58.00 feet;  
Thence North  $44^{\circ}46'09''$  East a distance of 21.21 feet;  
Thence North  $89^{\circ}46'09''$  East a distance of 95.00 feet;  
Thence South  $00^{\circ}13'51''$  East a distance of 255.00 feet;  
Thence North  $89^{\circ}46'09''$  East a distance of 107.48 feet to beginning of a curve concave Northeasterly having a radial bearing of North  $62^{\circ}38'51''$  East;  
Thence, along said curve, concave Northeasterly, of radius 68.00 feet through a central angle of  $73^{\circ}07'25''$  an arc distance of 86.78 feet;  
Thence North  $79^{\circ}31'26''$  East a distance of 50.13 feet;  
Thence North  $89^{\circ}46'09''$  East a distance of 343.58 feet;  
Thence South  $45^{\circ}13'51''$  East a distance of 21.21 feet;  
Thence South  $00^{\circ}13'51''$  East a distance of 200.00 feet;  
Thence South  $44^{\circ}46'09''$  West a distance of 21.21 feet;  
Thence South  $89^{\circ}46'09''$  West a distance of 343.58 feet;  
Thence North  $79^{\circ}59'08''$  West a distance of 50.13 feet to the beginning of a curve concave Southeasterly having a radial bearing of South  $10^{\circ}00'52''$  West;  
Thence along said curve, concave Southeasterly, of radius 68.00 feet through a central angle of  $85^{\circ}46'04''$  an arc distance of 101.79 feet;  
Thence South  $89^{\circ}46'09''$  West a distance of 102.16 feet;  
Thence South  $00^{\circ}13'51''$  East a distance of 500.00 feet;  
Thence North  $89^{\circ}46'09''$  East a distance of 110.00 feet;  
Thence South  $00^{\circ}13'51''$  East a distance of 27.00 feet;

Thence North  $89^{\circ}46'09''$  East a distance of 278.00 feet;

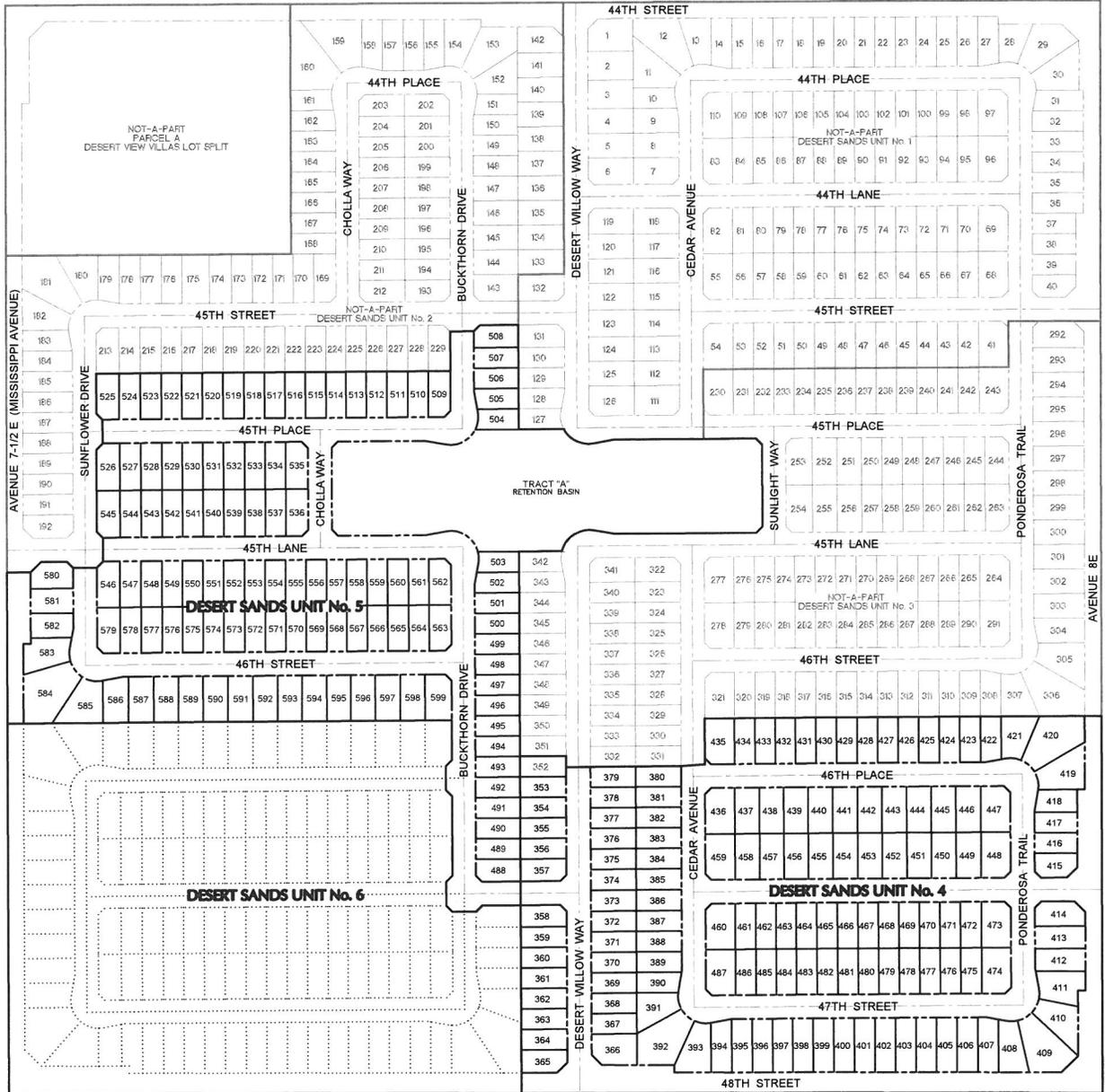
Thence North  $85^{\circ}49'26''$  East a distance of 58.14 feet;

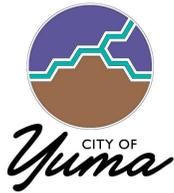
Thence North  $00^{\circ}13'51''$  West a distance of 112.00 feet;

Thence North  $89^{\circ}46'09''$  East a distance of 960.80 feet to the TRUE POINT OF BEGINNING;

Aforementioned parcel contains approximately 79.9551 acres.

# DESERT SANDS UNIT Nos. 4, 5 & 6 MUNICIPAL IMPROVEMENT DISTRICT DIAGRAM





# City of Yuma

## City Council Report

**File #:** R2025-032

**Agenda Date:** 4/16/2025

**Agenda #:** 6.

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

**TITLE:**

**Intent to Create Municipal Improvement District (MID) No. 131: Villa Serena Unit No. 2 Subdivision**

**SUMMARY RECOMMENDATION:**

Approve the creation of Municipal Improvement District (MID) No. 131 to serve Villa Serena Unit No. 2 Subdivision located at the northwest corner of Avenue 6E and 48<sup>th</sup> Street. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville).

**STRATEGIC OUTCOME:**

This MID assists in furthering the City Council’s strategic outcomes as it relates to Respected and Responsible and Active and Appealing. The establishment of a MID is a fiscally responsible measure intended to provide long-term maintenance for subdivision landscaping resulting in an appealing environment for neighborhood residents.

**REPORT:**

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 according to 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. Ideally, the tax base for that newly developed neighborhood would offset the costs of ongoing maintenance to serve that neighborhood. Public Works must utilize portions of its budget to pay for the maintenance needs of these new developments. Further, many of the residents in these developments would like extra services or specialized services that Public Works is unable to provide, leaving the residents feeling as if they have little control over the maintenance and beautification of their neighborhood.

As an alternative to this existing situation, a statutory Municipal Improvement District (MID) can be created. The state legislature permits the creation of MID’s 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 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 widely- used in other Arizona cities and towns 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 through a development condition and the developer has submitted an executed Petition, Waiver, and Consent form requesting the formation of the MID. The ability to form MIDs through development conditions instead of entering into formal agreements is especially important to smaller developers or developers improving property within redevelopment areas.

Attached to this Request for City Council Action is the petition to form a MID for the Villa Serena Unit No. 2 Subdivision development. In this situation, in which all the property owners have presented a Petition for Formation, the ordinary publication and posting periods are not required by law. Also attached is the formal Resolution of Intention for Creation of City of Yuma Municipal Improvement District No. 131: Villa Serena Unit No. 2 Subdivision, which is located at the northwest corner of Avenue 6E and 48<sup>th</sup> Street.

Following the passage of a Resolution of Intention to Create a 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 and the passage of the fifteen day period.

Adopting this Resolution authorizes the creation of Municipal Improvement District No. 131 to serve Villa Serena Unit No. 2 Subdivision.

**FISCAL REQUIREMENTS:**

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

**FISCAL IMPACT STATEMENT:**

NONE

**ADDITIONAL INFORMATION:**

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

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 04/07/2025
Reviewed by City Attorney: Richard W. Files	Date: 04/04/2025

**RESOLUTION NO. R2025-032**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, DECLARING ITS INTENTION TO CREATE MUNICIPAL IMPROVEMENT DISTRICT NO. 131, SERVING VILLA SERENA UNIT NO. 2, TO OPERATE, MAINTAIN AND REPAIR LANDSCAPING IMPROVEMENTS INCLUDED WITHIN, NEAR AND ADJACENT TO THE RETENTION AND DETENTION BASINS AND PARKINGS AND PARKWAYS AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES OF VILLA SERENA UNIT NO. 2**

WHEREAS, pursuant to Title 48, Chapter 4, Article 2, Arizona Revised Statutes, a Municipal Improvement District (MID) may be formed for the sole purpose of the operation maintenance, repair and improvements of pedestrian malls, off-street parking facilities, retention and detention basins, and parkings and parkways; and,

WHEREAS, a petition has been received by Mayor and City Council of the City of Yuma to form a MID to provide operation, maintenance and repair of the landscape improvements within, near and adjacent to the retention and detention basins and the parkings and parkways and related improvements in the Villa Serena Unit No. 2 housing development; and,

WHEREAS, the formation of a MID for the operation, maintenance and repair of the landscape improvements within, near, and adjacent to retention and detention basins and the parkings and parkways and related improvements serving Villa Serena Unit No. 2 will provide a dedicated stream of funding for the maintenance of those improvements, neighborhood decisions on those improvements, and will privatize the maintenance of those improvements; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona, find and declare that the formation of the MID to provide the operation, maintenance and repair of the landscape improvements within, near, and adjacent to the retention and detention basins and the parkings and parkways and related improvements in the Villa Serena Unit No. 2 housing development to be of more than local or ordinary public benefit, and not a general public benefit, and further that the expenses of said operation, maintenance, and repair shall be assessed upon each of the properties within Villa Serena Unit No. 2; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona, find and declare that the operation, maintenance, and repair of landscaping improvements in the retention and detention basins and the parkings and parkways and related improvements in the District is incidental to the maintenance and preservation of the retention and detention basins and the parkings and parkways and related improvements, has aesthetic value, and maintains and increases the value of property within the District; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona find and declare that the operation, maintenance, and repair of landscaping improvements within, near or adjacent to the retention and detention basins and the parkings and parkways and related improvements in the MID preserves and promotes the health, safety, and welfare of those citizens living within the District as well as preservation of the streets and parkways in the District which may be adversely impacted by drainage; and,

WHEREAS, the Mayor and City Council of the City of Yuma, Arizona find and declare that the operation, maintenance, and repair of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impacts of light, air, and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens living within the District.

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

SECTION 1: The petition to form a MID for Villa Serena Unit No. 2 purporting to be signed by all of the real property owners within the proposed District attached as Exhibit "A" is hereby accepted as provided in A.R.S. § 48-574(C).

SECTION 2: MID No. 131, serving Villa Serena Unit No. 2 to operate, maintain and repair landscaping improvements included within, near, and adjacent to the retention and detention basins and parkings and parkways and related facilities together with appurtenant structures of Villa Serena Unit No. 2, is hereby created.

SECTION 3: The expenses of MID No. 131 shall be assessed to the several properties within the MID as provided for in A.R.S. § 48-574 *et seq.* in which City Council shall make annual statements and estimates of the expenses of the MID which shall be provided for by the levy and collection of the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot.

SECTION 4: No sooner than fifteen (15) calendar days after this Resolution is adopted, City staff shall present a map of the boundary for MID No. 131 and a diagram for MID No. 131 to Mayor and City Council for consideration to declare an intention to order improvements to MID No. 131 as provided in A.R.S. § 48-576.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

**PETITION, WAIVER AND CONSENT TO FORMATION  
OF A MUNICIPAL IMPROVEMENT DISTRICT  
BY THE CITY OF YUMA**

131

---

MID#

Villa Serena Unit No. 2

---

Subdivision Name

To: Honorable Mayor and  
Honorable Councilmembers  
City of Yuma, Arizona

Pursuant to Arizona Revised Statutes (“A.R.S.”) §48-574, the undersigned property owner respectfully petitions the Mayor and City Council of the City of Yuma, Arizona (the “City Council”) to order the formation of a Municipal Improvement District (the “District”) under A.R.S., Title 48, Chapter 4, Article 2. In support of this petition, the undersigned agrees to waive certain rights under Arizona Law and to consent to the formation and completion of the District.

1. Area of District. The proposed District is described by a diagram and by a legal description on Exhibit “A” that is attached hereto and incorporated herein by reference.
2. Ownership. The undersigned (is) (are) the sole owner(s) of the real property within the proposed District (the “Petitioner(s)”) including any required public dedications of property.
3. Purpose. The District is proposed to be formed for the purpose of the operation, maintenance, repair and improvements of landscape, irrigation, and hardscape in retention basins, parkways and parkings within the proposed District.
4. Public Convenience and Necessity. The necessity for the proposed District is for the operation, maintenance, repair and improvements of landscape, irrigation, and hardscape in retention basins, parkways and parkings within the proposed District by the levying of special assessments in the proposed District.
5. Waiver and Consent. The Petitioners, with full knowledge of their rights being waived hereunder, hereby expressly waive all of the following:
  - (a) Any and all irregularities, illegalities or deficiencies which may exist in the acts or proceedings resulting in the adoption of the Resolution of Intention and the Resolution Ordering the Work relating to the District.
  - (b) Any necessity for publication and posting of the Resolution of Intention and the Notice of Proposed Improvements pursuant to A.R.S §48-578.
  - (c) All rights to petition to dissolve the district pursuant to A.R.S. §48-574(N).
  - (d) All protest rights whatsoever under A.R.S. §48-579(A) and (B), as amended.

(e) All objections to the filing of and legislative adoption by the City Council of the plans and specifications, the Engineer's estimate and the Assessment Diagram, all of which provide for the completion of the District.

(f) It is the intent of the undersigned Petitioners that items (a) through (e) above shall be binding on all successors and assigns and shall run with the land.

Further, the improvements described above are of more than local or ordinary public benefit, and not a general public benefit.

IN WITNESS WHEREOF, the parties have executed this Petition and Waiver Agreement as of \_\_\_\_\_, 20\_\_\_\_\_.

[SIGNATURES ON FOLLOWING PAGES]

**“Property Owner”**

Property Tax Parcel Numbers: 197-17-014

By: [Signature]

Name: Sean E. Kerley

Title: Member, Kerley Investments, LLC

Address: 4595 S. Villa Serena Drive, Yuma, AZ 85365

Date: 3/21/25

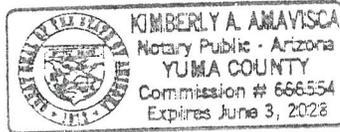
(ACKNOWLEDGMENT)

STATE OF AZ )  
 ) ss.  
COUNTY OF Yuma )

This instrument was acknowledged before me on March 21, 2025  
by Sean E. Kerley, as Member of Kerley Investments, a(n) LLC,  
\_\_\_\_\_ on behalf of the \_\_\_\_\_.

[Signature]  
Notary Public in and for the State of AZ

(affix notary seal here)



[SIGNATURES CONTINUE ON FOLLOWING PAGES]

**ACCEPTED AND APPROVED BY:**

“City”

CITY OF YUMA,  
an Arizona municipal corporation

\_\_\_\_\_  
Douglas J. Nicholls, Mayor

ATTEST:

\_\_\_\_\_  
Lynda Bushong, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF YUMA    )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_,  
by Douglas J. Nicholls, the Mayor of the CITY OF YUMA, an Arizona municipal corporation, on  
behalf of the City of Yuma.

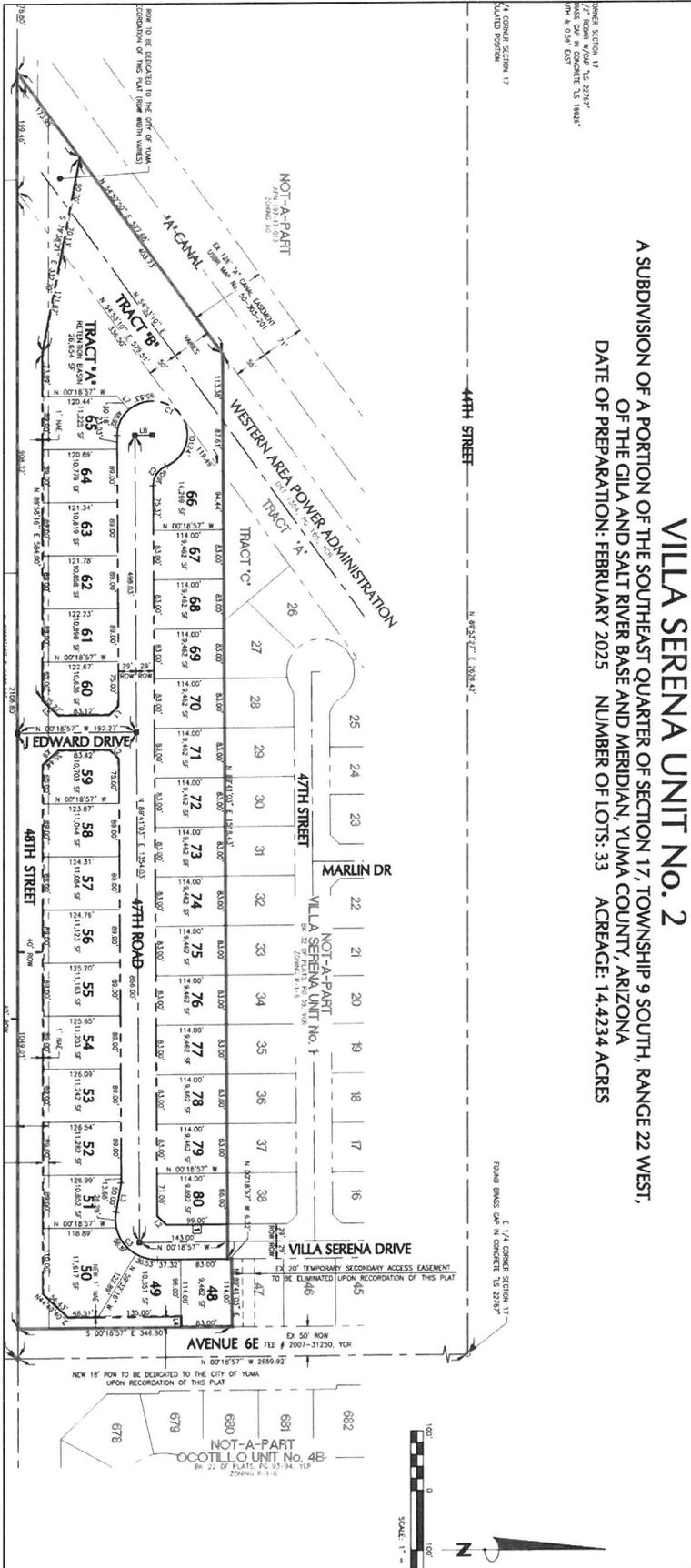
\_\_\_\_\_  
Notary Public in and for the State of Arizona

(affix notary seal here)

# EXHIBIT "A"

## VILLA SERENA UNIT No. 2

A SUBDIVISION OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 9 SOUTH, RANGE 22 WEST,  
OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YUMA COUNTY, ARIZONA  
DATE OF PREPARATION: FEBRUARY 2025 NUMBER OF LOTS: 33 ACREAGE: 14.4234 ACRES



**Villa Serena Unit No. 2**  
**LEGAL DESCRIPTION**

That portion of the Southeast Quarter of Section 17, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona, lying Southeasterly of the southerly Right of Way line of the "A" Canal, more particularly described as follows:

BEGINNING at the Southeast corner of said Section 17;

Thence South  $89^{\circ}58'16''$  West along the South line of the Southeast quarter of said Section 17 a distance of 2156.80 feet to a point on the southerly right-of-way of the USBR "A" Canal;

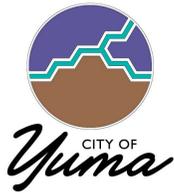
Thence North  $54^{\circ}52'50''$  East along the southerly right-of-way line of the USBR "A" Canal a distance of 577.68 feet;

Thence North  $89^{\circ}41'03''$  East a distance of 1518.43 feet;

Thence North  $00^{\circ}18'57''$  West a distance of 6.32 feet;

Thence North  $89^{\circ}41'03''$  East a distance of 164.00 feet to a point on the East line of the Southeast quarter of said Section 17;

Thence South  $00^{\circ}18'57''$  East along the East line of the Southeast quarter of said Section 17 a distance of 346.85 feet to the point of BEGINNING.



# City of Yuma

## City Council Report

File #: O2025-006

Agenda Date: 4/2/2025

Agenda #: 1.

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

**TITLE:**

**Declare Property Surplus and Authorize Transfer and Settlement of Lawsuit: Bill Alexander Ford Lincoln Mercury and BJA Enterprises, LLC**

**SUMMARY RECOMMENDATION:**

Authorize the vacation of Bonanza Avenue right-of-way, reserving utility and access easements in the right-of-way, declare the Meinhardt/B-8 Stormwater Basin (subject to certain no-build easements) and the vacated Bonanza Avenue right-of-way (subject to the reserved easements) surplus, and authorize an exchange of the surplus property to Bill Alexander Ford Lincoln Mercury Inc. (Alexander Ford) or its nominee in exchange for a covenant to perform perpetual maintenance and stormwater capacity of the basin property. (City Attorney) (Richard Files)

**STRATEGIC OUTCOME:**

Approval of this ordinance supports City Council’s strategic outcome of a Unique and Creative solution to divest City responsibilities for maintenance of a stormwater retention basin and roadway into the private sector for a more productive use of the property and the dismissal of a federal lawsuit.

**REPORT:**

In 2019 the City of Yuma transferred Crest Drive to Alexander Ford in exchange for perpetual maintenance of the Meinhardt/B-8 Stormwater Basin (Bonanza Basin) while reserving utility easements in Crest Drive and title to Bonanza Stormwater Basin in the City of Yuma. In this proposed ordinance, the City will similarly transfer title to Bonanza Avenue to Alexander Ford while reserving utility and access easements, as well as transfer title to Bonanza Basin to Alexander Ford while reserving a 100-foot no-build easement which, in accordance with the Runway Approach and Departure Safety Area (RADSA) described in the Yuma City Code, allows parking on the north 51 feet of the 100 foot no-build easement.

Under a covenant attached to the 2019 deed for Crest Drive, Alexander Ford is currently providing maintenance to the Bonanza Storm Water Basin, which serves the drainage needs of 32<sup>nd</sup> Street and surrounding properties including Alexander Ford and other auto group dealerships that drain into the basin. The necessary capacity of the basin is equivalent to 22-acre feet, and this capacity must be maintained once title to the Bonanza Basin property transfers or the deed will revert Bonanza Basin and Bonanza Avenue back to the City. Similarly, Bonanza Avenue primarily serves Alexander Ford, utilities, and access for a limited number of other parcels. By turning Bonanza Avenue over to Alexander Ford, as was accomplished with Crest Drive, the City will no longer bear the cost of maintenance and repair of the street.

The savings to the City by vacating the Crest Drive right-of-way and turning over the maintenance of Bonanza Basin to Alexander Ford was estimated in the 2019 City Council ordinance at \$190,730. An additional savings of at least \$125,000 will be realized by transferring Bonanza Avenue to Alexander Ford. To enforce the covenants and easements included with the exchange, the proposed deed (similar to the 2019 Crest Drive deed) carries a right-of-reverter, meaning the property reverts to the City if Alexander Ford fails to maintain the Bonanza Basin or reserved easements as required. Additionally, BJA Enterprises, an affiliate of Bill Alexander Ford, will dismiss its federal takings lawsuit (Case No. 2:20-CV-01901) against the City of Yuma, each party to bear their own attorney’s fees and costs.

Location maps of the described parcels are attached to the proposed ordinance.

**FISCAL REQUIREMENTS:**

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

**FISCAL IMPACT STATEMENT:**

NONE

**ADDITIONAL INFORMATION:**

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

NONE

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

- Department
- City Clerk’s Office
- Document to be recorded
- Document to be codified

Acting City Administrator: John D. Simonton	Date: 03/25/2025
Reviewed by City Attorney: Richard W. Files	Date: 03/23/2025

**ORDINANCE NO. O2025-006**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, VACATING THE RIGHT-OF-WAY HEREAFTER DESCRIBED, DECLARING MEINHARDT/B-8 STORMWATER RETENTION BASIN AND THE VACATED RIGHT-OF-WAY SURPLUS WITH THE RESERVATION OF CERTAIN EASEMENTS, AND AUTHORIZING THE EXCHANGE OF THE SURPLUS RIGHT-OF-WAY AND RETENTION BASIN SUBJECT TO A REVERTER CLAUSE UPON THE RECORDING OF A SPECIAL WARRANTY DEED**

WHEREAS, the City of Yuma (City) owns certain right-of-way (Bonanza Avenue) and the Meinhardt/B-8 Stormwater Retention Basin (Bonanza Basin), described and depicted in Exhibits A and B to the attached form of special warranty deed (Exhibit 1); and,

WHEREAS, Bill Alexander Ford Lincoln Mercury Inc., an Arizona corporation (Alexander Ford), seeks to acquire fee title to the Bonanza Basin and Bonanza Avenue right-of-way, subject to certain reserved easements, in exchange for a covenant that runs with the land that the owner will maintain the Bonanza Basin to City standards with a minimum retention capacity of 22-acre feet of stormwater; and,

WHEREAS, the City of Yuma has determined that vacating the Bonanza Avenue right-of-way from the south side of 32<sup>nd</sup> Street as shown on Exhibit A is not detrimental to City operations, as long as an easement is reserved over the existing roadway for access to otherwise landlocked parcels and a utilities easement within the roadway is reserved for existing and future City water, sewer, utility and stormwater drain lines; and,

WHEREAS, by vacating the right-of-way, declaring both the Bonanza Avenue and Bonanza Basin properties surplus, and transferring fee title to Bonanza Avenue and Bonanza Basin to Alexander Ford, the City of Yuma will realize cost savings of \$110,000 for street reconstruction and a further \$3,021 savings every fifth year from slurry seal maintenance requirements in addition to dismissal of Case No. 2:20-CV-01901; and,

WHEREAS, in consideration for the underlying fee title to the Bonanza Avenue and Bonanza Basin properties, Alexander Ford and any successors have agreed to maintain Bonanza Basin and the described easements as a covenant with a right of reverter (and potential permanent loss of use) in the event Alexander Ford or any successor fails to maintain Bonanza Basin and the reserved easements as promised.

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

**SECTION 1:** The right-of-way described in Exhibit A is vacated with the reservation of a utility easement to the City of Yuma over, under and through the depicted segment of Bonanza Avenue and the reservation of an access easement to any otherwise landlocked parcels.

**SECTION 2:** The right-of-way described in Exhibit A and the retention basin described in Exhibit B, with the exception of the reserved easements in the form of the special warranty deed attached as Exhibit 1, are declared surplus for City use and authorized for exchange to Alexander Ford, subject to a covenant and right-of-reverter that the owner and owner's successors will maintain Bonanza Basin and the easements as described.

SECTION 3: The maintenance of Bonanza Basin covenant and obligation shall run with title to the surplus properties and, with dismissal of Case No. 2:20-CV-01901, is appropriate consideration commensurate with the value of the surplus property.

SECTION 4: BJA Enterprises LLC must dismiss its lawsuit, with prejudice, each party to bear its own attorney’s fees and costs, before the City of Yuma records title to the surplus property.

SECTION 5: All exhibits described in this ordinance are incorporated by reference and the vacation of the described right-of-way shall be final upon the recording of the special warranty deed in a form similar to that attached as Exhibit 1.

SECTION 6: The City Administrator is authorized to execute the special warranty deed and to act on behalf of the City of Yuma in all matters concerning this ordinance, including dismissal of the lawsuit.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

**Exhibit 1**

**SPECIAL WARRANTY DEED WITH RIGHT OF REVERTER**

**City of Yuma to Alexander Ford Lincoln Mercury, Inc.**

**RECORDING REQUESTED BY**

**Bill Alexander Ford Lincoln Mercury, Inc.  
801 E 32<sup>nd</sup> Street  
Yuma, Arizona 85365**

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**Special Warranty Deed**

Exempt from Affidavit of property value ARS 11-1134(A)(3)

For the sum of Ten Dollars and other valuable consideration, the **City of Yuma**, an Arizona municipal corporation (**Grantor**), does hereby grant and convey to **Bill Alexander Ford Lincoln Mercury, Inc., an Arizona corporation (Grantee)**, the following real property situated in Yuma County, Arizona:

Parcel A described in Exhibit A and Parcel B described in Exhibit B, each attached and by reference made a part hereof.

**SUBJECT TO:** Reservation of a perpetual utility and access easement over, under and through the real property described in Exhibit A, attached and by this reference made a part hereof, for the benefit of Grantor, Grantor's licensees, and for other parcels which require access. The reserved easement is for purposes of maintenance, reconstruction and installation of utilities within the easement, as well as access for any parcels that would otherwise be landlocked without the easement.

**AND FURTHER SUBJECT TO:** Reservation of a 100-foot no-build easement north of the south boundary of the real property (extended centerline of the 34<sup>th</sup> Street alignment) described in Exhibit B. The no-build easement shall be used to provide for storm water retention for a total retention capacity of no less than 22-acre feet (with a level bottom surface), while the north 51 feet of the no-build easement and remainder of the described Parcel B may only be used for retention of the 22-acre feet minimum and/or parking.

**REVERTER:** All covenants set forth below shall attach to the land as perpetual covenants and run with title. Any violation of these covenants by the Grantee, Grantee's heirs, successors,

representatives, or assigns, shall forfeit title from Grantee and title shall revert to the Grantor, with the same rights and title as before the execution of this instrument, fully and completely as if this instrument had not been executed and recorded.

In exchange for title granted, Grantee covenants:

- (1) Grantee shall maintain a sufficient stormwater basin on Parcel B of the Meinhardt/B-8 Stormwater Basin Lot Split, dated October 28, 1998 and recorded as Fee# 1998-28530, Book 16 of Plats, Page 13, Yuma County Recorder's Office. This covenant shall run with the land and in the event Grantee fails to maintain the basin to the City of Yuma's published standards with a capacity of no less than 22 acre feet of stormwater (including landscaping), Grantor shall provide Grantee 30 days written notice of the deficiency. If Grantee fails to satisfactorily commence addressing the lack of maintenance or capacity within such 30-day period, Grantor shall then have all rights to declare title forfeit by recording a deed of forfeiture or such other process as may be required by law, whereupon title to the described property shall revert to the Grantor, free and clear of any and all claims or encumbrances of the Grantee.
  
- (2) Grantee's title shall be subordinate to the reserved easements described above. This covenant shall run with the land and in the event Grantee fails to honor such easements, Grantor shall provide Grantee 30 days written notice of the deficiency. If Grantee fails to satisfactorily honor the easement within such 30-day period, Grantor shall then have all rights to declare title forfeit by recording a deed of forfeiture or such other process as may be required by law, whereupon title to the described property shall revert to the Grantor, free and clear of any and all claims or encumbrances of the Grantee.

Title to the described real property shall vest in the Grantee upon recording this instrument, subject to the reservation of easements and the right of reverter described above, 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 hereby binds itself and its successors to warrant and defend title against all acts of the Grantor herein, and no other, subject to the matters and covenants set forth in this instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**GRANTOR:**  
**City of Yuma, an Arizona municipal corporation**

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John D. Simonton  
City Administrator

Attest:

Approved as to form:

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Lynda L. Bushong  
City Clerk

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Richard W. Files  
City Attorney

**Acceptance with Right of Reverter**

Bill Alexander Ford Lincoln Mercury, Inc.

By: \_\_\_\_\_  
Ryan Hancock  
President

**Acknowledgements**

State of Arizona     )  
  )ss  
County of Yuma     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2025, by John D. Simonton, City Administrator, on behalf of the City of Yuma, an Arizona municipal corporation.

My Commission Expires: \_\_\_\_\_  
Notary

State of Arizona     )  
  )ss  
County of Yuma     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2025, by Ryan Hancock, President, on behalf of Bill Alexander Ford Lincoln Mercury, Inc., an Arizona corporation.

My Commission Expires: \_\_\_\_\_  
Notary

**Exhibit A**  
**Legal Description**  
**Bonanza Avenue**

A portion of the Northeast Quarter of the Northwest Quarter of Section 10, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona, and being more particularly described as follows:

Beginning at the Northeast Corner of the Northwest Quarter Northeast Quarter of the Northwest Quarter of said Section 10,

Thence Southerly along the East line of said Northwest Quarter of the Northeast Quarter of the Northwest Quarter a distance of 100.00' feet to a point on the said East line,

Thence Westerly along a line lying 100.00' feet South of and parallel with the North line of said Section 10 a distance of 25.00' feet to a point, also being the **True Point of Beginning**,

Thence Southerly along a line being 25.00' feet East and parallel with the East line of the Northwest Quarter of the Northeast Quarter of the Northwest Quarter a distance of 786.81' feet to a point,

Thence Easterly a distance of 25.00' to a point on the East line of the Northwest Quarter of the Northeast Quarter of the Northwest Quarter of said Section 10,

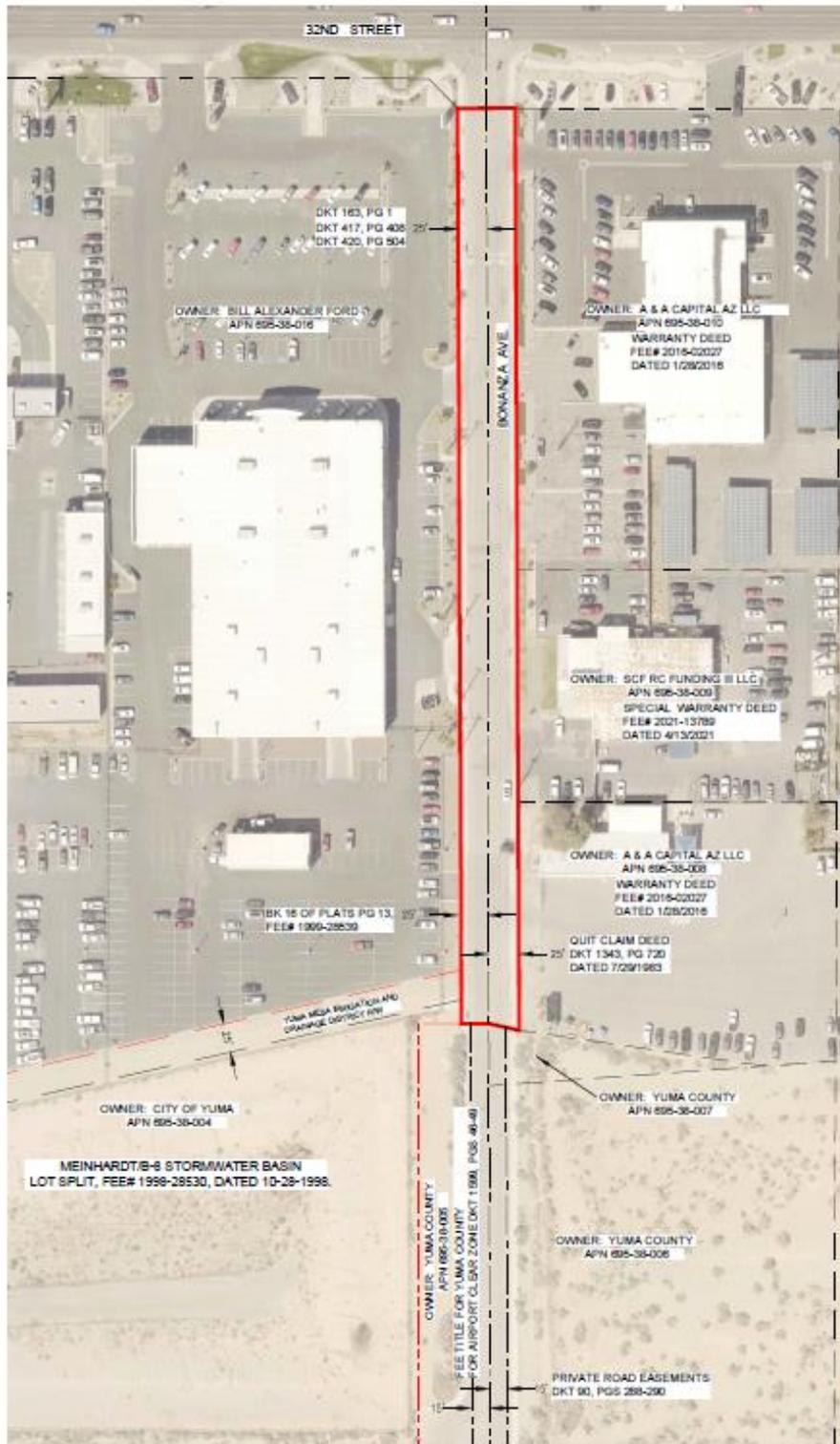
Thence Southeasterly along a line a distance of 26.00'± feet to a point,

Thence Northerly along a line being 25.00' feet East and parallel with the East line of the Northwest Quarter of the Northeast Quarter Northwest Quarter of said Section 10 a distance of 794.30' feet to a point being 100.00' South of the North line of said Section 10,

Thence Easterly along a line being 100.00' feet South and parallel with the North line of said Section 10 a distance of 50.00' feet to a point also being the **True Point of Beginning**.

Containing 0.90 of an acre more or less.

Legal Description Verified by City Engineer	Date



## EXHIBIT "A"

CITY OF YUMA  
ENGINEERING DEPARTMENT

NOTE: THIS MAP IS PREPARED TO SHOW  
GENERAL SITE LOCATION ONLY.

Date: 1-24-2025

SCALE: NA

Prepared by: JOHN NYE



**Exhibit B**  
**Legal Description**  
**Parcel "B" Basin**

Parcel B as per the MEINHARDT /B-8 STORMWATER BASIN LOT SPLIT, Fee# 1998-28530, Dated: 10-28-1998 in the Yuma County Recorder's Office of Yuma County, Arizona. Also being located in the Southwest Quarter of the Northeast Quarter of the Northwest Quarter, of Section 10, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona.

Containing 4.8028 Acres more or less.

Legal Description Verified by City Engineer	Date



RETENTION BASIN

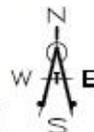
**EXHIBIT "B"**

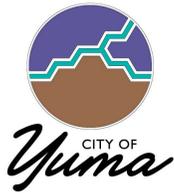
CITY OF YUMA  
ENGINEERING DEPARTMENT

Prepared by: JOHN NYE

NOTE: THIS MAP IS PREPARED TO SHOW  
GENERAL SITE LOCATION ONLY.

Date:	1-24-2025
SCALE:	1"=100'





# City of Yuma

## City Council Report

**File #:** O2025-009

**Agenda Date:** 4/2/2025

**Agenda #:** 2.

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

**TITLE:**

**Rezoning of Property: Café Main Street Properties, LLC**

**SUMMARY RECOMMENDATION:**

Rezone approximately 4.18 acres located west of the 7<sup>th</sup> Street and 21<sup>st</sup> Avenue intersection, Yuma, AZ from the High Density Residential (R-3) District to the General Commercial (B-2) District. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

**STRATEGIC OUTCOME:**

Approval of this rezone supports development in the City that will be responsibly constructed, meeting all codes and requirements. This rezone furthers the City Council's strategic outcomes of Safe and Prosperous and Respected and Responsible.

**REPORT:**

The subject property is located west of the W. 7<sup>th</sup> Street and S. 21<sup>st</sup> Avenue intersection and is approximately 4.18 acres. The property was annexed into the City of Yuma on February 2, 1954, and was recently the subject of a General Plan Amendment to change the designated land use from Low Density Residential to Commercial.

With this request the applicant is seeking to rezone the property from the High Density Residential (R-3) District to the General Commercial (B-2) District for the development of new company housing. The applicant intends to develop the property with six two-story apartment buildings, with 16 apartments per building. Access to the site will be from 21<sup>st</sup> Avenue and 24<sup>th</sup> Avenue.

Company housing (large) is a permitted use within the General Commercial (B-2) District. It is defined by the zoning code as housing provided to employees by a commercial entity, labor contractor or employer. Occupancy (persons per unit) for a large complex shall be determined by the Property Maintenance Code. At this time, the number of occupants is unknown, but can vary depending on the size of the bedrooms and the total square footage of the living and dining areas. The proposed development will be fully occupied for six months and partially occupied for the remaining six months.

All new development will be required to meet the City of Yuma development standards for the General Commercial (B-2) District, including building setbacks, height limitations, paved access, parking, lighting, and landscaping. In addition, the following development standards further specified in Yuma City Code §154-15.19 (C) will be required for the new construction of company housing (large):

1. Parking shall comply with the parking required of multiple dwellings.
  - a. Shall provide dedicated on-site bus parking for loading and unloading of residents within a minimum of one bus parking space for each 50 residents.
  - b. The parking and or/idling of vehicles, used for pick-up, on public streets shall be prohibited.
  - c. The Zoning Administrator shall have the authority to approve off-site pick-up locations as an alternative to providing on-site bus parking when such alternatives are available.
2. Each occupant shall be required to have or be provided their own bed.
3. It is required that each new construction company housing complex (large) provide an indoor recreation facility. On-site outdoor recreation facility for this development will not be required because the property is within 1,500 feet of a public park.
4. On-site laundry facilities are required.
5. A complex housing 25 or more occupants requires the presence of a crew chief or supervisor on-site.
6. An annual inspection of the company housing complex will be performed by the Building Official and/or the Fire Marshal, prior to occupancy.
7. All company housing complexes are required to have property manager contact information posted on-site with visibility and access by the general public.

Two site plan options were provided during the Pre-Development Meeting. Site Plan Option A illustrates the proposed layout of the buildings, featuring 60 parking spaces and a bus turnout for on-site bus parking. Site Plan Option B showcases the proposed layout of the buildings with 148 vehicle parking spaces and no on-site bus parking. The number of vehicle parking spaces will be determined based on the number of bedrooms in each unit, while the amount of on-site bus parking will be determined by the number of occupants in the development. Both the number of vehicle parking and on-site bus parking will be reviewed during the plan review stage.

The request to rezone the property from the High Density (R-3) District to the General Commercial (B-2) District conforms with the General Plan.

On February 24, 2025, the Planning and Zoning Commission voted 4-0 to recommend approval of the request to rezone approximately 4.18 acres from the High Density Residential (R-3) District to the General Commercial (B-2) District for the property located west of the 7<sup>th</sup> Street and 21<sup>st</sup> Avenue intersection, Yuma, AZ, subject to the following conditions:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
3. In lieu of a Traffic Impact Statement/Study, the owner can furnish a statement of the number and times of the trips in/out by buses and/or vans as well as the number of people who will drive to location, park and transfer to the buses and/or vans. Also included in this statement should be how the Owner intends to accommodate parking for those people who drive to/from business daily for work. Owner will also agree to have a Traffic Impact Study done in the future, if they decide to change to standard multifamily housing. Owner will also agree to pay for improvements recommended in the study, should the project convert to standard multifamily housing in the future.
4. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS § 9-462.01.

**PUBLIC COMMENTS - EXCERPT FROM PLANNING AND ZONING COMISSION MEETING MINUTES:**

Erika Peterson, Senior Planner summarized the staff report and recommended APPROVAL with the inclusion of a new Engineering Condition.

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANT’S REPRESENTATIVE**

None

**PUBLIC COMMENT**

None

**MOTION**

“Motion by Malouff-Craig, second by Lorraine Arney to APPROVE ZONE-43538-2024 with the addition of a Condition provided by Engineering which states as follows “In lieu of a Traffic Impact Statement/Study, the owner can furnish a statement of the number and times of the trips in/out by buses and/or vans as well as the number of people who will drive to location, park and transfer to the buses and/or vans. Also included in this statement should be how the Owner will accommodate parking for those people who drive to/from business daily for work. Owner will also agree to have a Traffic Impact Study done in the future, if the Owner decides to change to standard multifamily housing. Owner will also agree to pay for improvements recommended in the study, should the project convert to standard multifamily housing in the future.

“Motion carried unanimously, (4-0) with two absent and one vacancy.’

Planning and Zoning Staff Report - Attached

**FISCAL REQUIREMENTS:**

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

**FISCAL IMPACT STATEMENT:**

NOT APPLICABLE

**ADDITIONAL INFORMATION:**

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

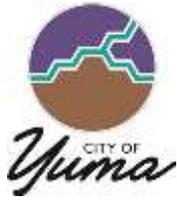
NONE

IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR

ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?

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

Acting City Administrator: John D. Simonton	Date: 03/25/2025
Reviewed by City Attorney: Richard W. Files	Date: 03/23/2025



**STAFF REPORT TO THE PLANNING AND ZONING COMMISSION  
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES  
COMMUNITY PLANNING DIVISION  
CASE TYPE – REZONE  
CASE PLANNER: ERIKA PETERSON**

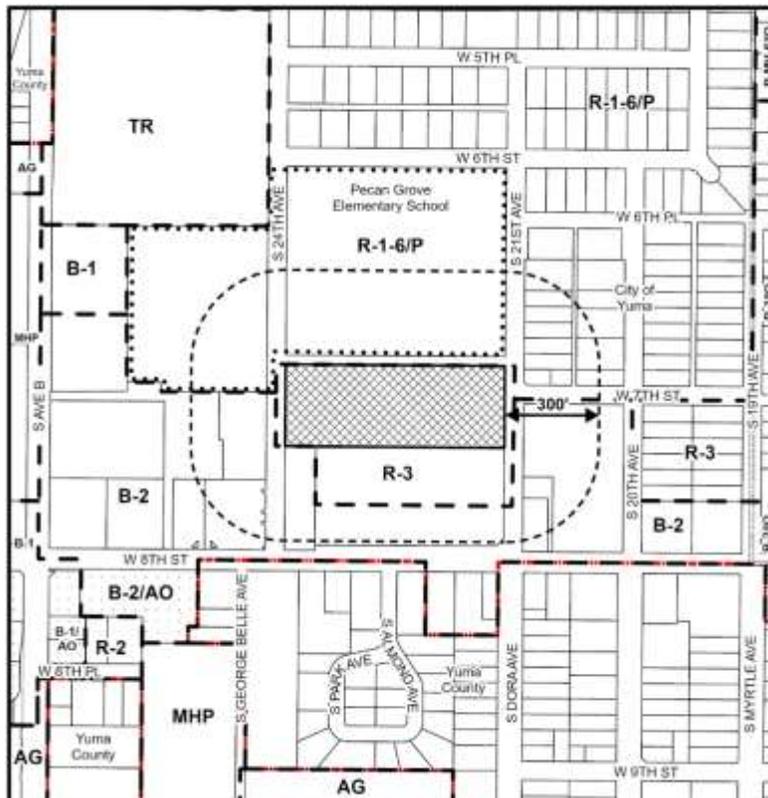
**Hearing Date:** February 24, 2025

**Case Number:** ZONE-43538-2024

**Project Description/ Location:** This is a request by Bob Woodman, on behalf of Café Main Street Properties, to rezone approximately 4.18 acres from the High Density Residential (R-3) District to the General Commercial (B-2) District, for the property located west of the W. 7<sup>th</sup> Street and S. 21<sup>st</sup> Avenue intersection, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
<b>Site</b>	High Density Residential (R-3)	Undeveloped	Low Density Residential
<b>North</b>	Low Density Residential (R-1-6)	Elementary School	Public/Quasi Public
<b>South</b>	High Density Residential and General Commercial (R-3/B-2)	Company Housing	Low Density Residential
<b>East</b>	Low Density Residential and General Commercial (R-1-6/B-2)	Single-family homes Desert Palms MH & RV Park	Low Density Residential
<b>West</b>	Low Density Residential and General Commercial (R-1-6/B-2)	Single-family residence and COY retention basin	Low Density Residential/Mixed Use

**Location Map**



**Prior site actions:** Annexation Ord. 605, February 2, 1954; Rezone Ordinance O2015-036 (R-3/PUD to R-3); Subdivision Pecan Grove Garden Estates Subdivision Lot Tie, Fee No. 2015-21970; Pre-Development Meeting: September 26, 2024; General Plan Amendment R2025-XXX, February 19, 2025

**Staff Recommendation:** Staff recommends **APPROVAL** of the rezoning from the High Density Residential (R-3) District to the General Commercial (B-2) District, subject to the conditions shown in Attachment A.

**Suggested Motion:** Move to **APPROVE** Rezone ZONE- 43538-2024 as presented, subject to the staff report, information provided during this hearing, and the conditions in Attachment A.

**Effect of the Approval:** By approving the rezone, the Planning and Zoning Commission is recommended approval to City Council for the request to rezone approximately 4.18 acres from the High Density Residential (R-3) District to the General Commercial (B-2) District for the property located west of the W. 7<sup>th</sup> Street and S. 21<sup>st</sup> Avenue intersection, Yuma, AZ, subject to the conditions outlined in Attachment A, and affirmatively finds that the request is in conformance with the City of Yuma General Plan.

**Staff Analysis:** The subject property is located west of the W. 7<sup>th</sup> Street and S. 21<sup>st</sup> Avenue intersection and is approximately 4.18 acres. The property was annexed into the City of Yuma on February 2, 1954, and was recently the subject of a General Plan Amendment to change the designated land use from Low Density Residential to Commercial.

With this request the applicant is seeking to rezone the property from the High Density Residential (R-3) District to the General Commercial (B-2) District for the development of new company housing. The applicant intends to develop the property with six two-story apartment buildings, with 16 apartments per building. Access to the site will be from 21<sup>st</sup> Avenue and 24<sup>th</sup> Avenue.

Company housing (large) is a permitted use within the General Commercial (B-2) District. It is defined by the zoning code as housing provided to employees by a commercial entity, labor contractor or employer. Occupancy (persons per unit) for a large complex shall be determined by the Property Maintenance Code. At this time, the number of occupants is unknown, but can vary depending on the size of the bedrooms and the total square footage of the living and dining areas. The proposed development will be fully occupied for six months and partially occupied for the remaining six months.

All new development will be required to meet the City of Yuma development standards for the General Commercial (B-2) District, including building setbacks, height limitations, paved access, parking, lighting, and landscaping. In addition, the following development standards further specified in §154-15.19 (C) will be required for the new construction of company housing (large):

1. Parking shall comply with the parking required of multiple dwellings.
  - a. Shall provide dedicated on-site bus parking for loading and unloading of residents within a minimum of one bus parking space for each 50 residents.
  - b. The parking and or/idling of vehicles, used for pick-up, on public streets shall be prohibited.

- c. The Zoning Administrator shall have the authority to approve off-site pick-up locations as an alternative to providing on-site bus parking when such alternatives are available.
2. Each occupant shall be required to have or be provided their own bed.
3. It is required that each new construction company housing complex (large) provide an indoor recreation facility. On-site outdoor recreation facility for this development will not be required because the property is within 1,500 feet of a public park.
4. On-site laundry facilities.
5. A complex housing 25 or more occupants requires the presence of a crew chief or supervisor on-site.
6. An annual inspection of the company housing complex will be performed by the Building Official and/or the Fire Marshal, prior to occupancy.
7. All company housing complexes are required to have property manager contact information posted on-site with visibility and access by the general public.

Two site plan options were provided during the Pre-Development Meeting. Site Plan Option A illustrates the proposed layout of the buildings, featuring 60 parking spaces and a bus turnout for on-site bus parking. Site Plan Option B showcases the proposed layout of the buildings with 148 vehicle parking spaces and no on-site bus parking. The number of vehicle parking spaces will be determined based on the number of bedrooms in each unit, while the amount of on-site bus parking will be determined by the number of occupants in the development. Both the number of vehicle parking and on-site bus parking will be reviewed during the plan review stage.

The request to rezone the property from the High Density (R-3) District to the General Commercial (B-2) District conforms with the General Plan.

**1. Does the proposed zoning district conform to the Land Use Element?** Yes.

Land Use Element:									
Land Use Designation:				Commercial					
Issues:				None					
Historic District:	Brinley Avenue		Century Heights		Main Street		None	X	
Historic Buildings on Site:		Yes		No	X				

**2. Are there any dedications or property easements identified by the Transportation Element?**  
No.

FACILITY PLANS						
Transportation Master Plan	Planned	Existing	Gateway	Scenic	Hazard	Truck
21 <sup>st</sup> Avenue-Local Road 2 Lanes	29 FT HW	30 FT HW				
8 <sup>th</sup> Street- Minor Arterial 4 Lanes	50 FT HW	40 FT HW		X		X
Bicycle Facilities Master Plan	8 <sup>th</sup> Street- Proposed bike lane; 21 <sup>st</sup> Avenue- Proposed bike route					
YCAT Transit System	8 <sup>th</sup> Street at Avenue B and 8 <sup>th</sup> Street at Magnolia- Purple Route 6A					
Issues:	None					

**3. Does the proposed rezoning of the property conform to the remaining elements of the general plan? Yes.**

<b>Parks, Recreation and Open Space Element:</b>													
Parks and Recreation Facility Plan													
Neighborhood Park:		Existing: Kiwanis Park				Future: Kiwanis Park							
Community Park:		Existing: Carver Park Complex				Future: Carver Park Complex							
Linear Park:		Existing: West Main Canal Linear Park				Future: Thacker Lateral Linear Park							
Issues:		None											
<b>Housing Element:</b>													
Special Need Household:		N/A											
Issues:		None											
<b>Redevelopment Element:</b>													
Planned Redevelopment Area:		N/A											
Adopted Redevelopment Plan:		North End:		Carver Park:		None:		X					
Conforms:		Yes		No		N/A							
<b>Conservation, Energy &amp; Environmental Element:</b>													
Impact on Air or Water Resources		Yes		No		X							
Renewable Energy Source		Yes		No		X							
Issues:		None											
<b>Public Services Element:</b>													
Population Impacts Population projection per 2018-2022 American Community Survey Police Impact Standard: 1 officer for every 530 citizens; 2020 Conservation Plan Water demand: 207 gallons/day/person; Wastewater generation: 70 gallons per day per person			<b>Dwellings &amp; Type</b>		<b>Projected Population</b>		<b>Police Impact</b>		<b>Water Consumption</b>		<b>Wastewater Generation</b>		
			<i>Non-residential</i>						<b>Officers</b>		<b>GPD</b>		<b>GPD</b>
			Maximum	Per Unit									
			0	0			0		0.00		0		0.0
			Minimum										
0	0			0		0.00		0		0.0			
Fire Facilities Plan:		Existing: Fire Station No. 4				Future: Northwest Valley							
Water Facility Plan:		Source:		City		X		Private		Connection: 6" AC on S. 21 <sup>st</sup> Avenue			
Sewer Facility Plan:		Treatment:		City		X		Septic		Private			
Connection: 8" line through parcel													
Issues:		None											
<b>Safety Element:</b>													
Flood Plain Designation:		500 Year Flood				Liquefaction Hazard Area:		Yes		No			
Issues:		None											
<b>Growth Area Element:</b>													
Growth Area:		Araby Rd & Interstate 8			Arizona Ave & 16 <sup>th</sup> St			Avenue B & 32 <sup>nd</sup> St.					
		North End		Pacific Ave & 8 <sup>th</sup> St		Estancia		None		X			
Issues:		None											

**4. Does the proposed rezoning conform to the adopted facilities plan? Yes.**

**5. Does the proposed rezoning conform to Council's prior approval of rezonings, development agreements or subdivisions for this site? Yes.**

**Public Comments Received:** None Received.

**External Agency Comments:** See Attachment E

**Neighborhood Meeting Comments:** No meeting required.

**Proposed conditions delivered to applicant on:** 1/30/2025

**Final staff report delivered to applicant on:** 2/10/2025

- Applicant agreed with all of the conditions of approval on: (enter date)
- Applicant did not agree with the following conditions of approval: (list #'s)
- Conditions of approval were emailed to the applicant on 1/30/2025 and staff is currently awaiting a response.

**Attachments**

A	B	C	D	E	F	G	H
Conditions of Approval	Conceptual Site Plan A	Conceptual Site Plan B	Agency Notifications	Agency Comments	Neighbor Notification List	Neighbor Postcard	Aerial Photo

**Prepared By:** *Erika Peterson* **Date:** 1/28/2025

Erika Peterson  
Senior Planner  
[Erika.Peterson@YumaAZ.Gov](mailto:Erika.Peterson@YumaAZ.Gov) (928)373-5000, x3071

**Reviewed By:** *Jennifer L. Albers* **Date:** 2/3/25  
Jennifer L. Albers  
Assistant Director of Planning

**Approved By:** *Alyssa Linville* **Date:** 02/11/2025  
Alyssa Linville  
Director, Planning and Neighborhood Services

**ATTACHMENT A  
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

**Department of Planning and Neighborhood Services Comments: Alyssa Linville, Director (928) 373-5000, x 3037:**

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

**Community Planning, Erika Peterson, Senior Planner, (928) 373-5000 x3071**

3. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS § 9-462.01.

**Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.**





**ATTACHMENT D  
AGENCY NOTIFICATIONS**

- **Legal Ad Published: The Sun** 1/31/2025
- **300' Vicinity Mailing:** 1/6/2025
- **34 Commenting/Reviewing Agencies noticed:** 1/9/2025
- **Site Posted on:** 2/18/2025
- **Neighborhood Meeting:** N/A
- **Hearing Date:** 2/24/2025
- **Comments due:** 1/20/2025

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	YES	1/9/2025	X		
Yuma County Engineering	NR				
Yuma County Public Works	YES	1/9/2025	X		
Yuma County Water Users' Assoc.	YES	1/10/2025	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	YES	1/10/2025		X	
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
USDA – NRCS	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	1/13/2025	X		
Ft. Yuma Quechan Tribe	YES	1/9/2025	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineer	NR				
Fire	YES	1/13/2025	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	NR				
Utilities	NR				
Public Works	NR				
Streets	NR				



1/14/2025

TO: Jamie Sheldahl  
Yuma Elementary School District #1

CO: Erika Peterson  
City of Yuma

FROM: Bob Woodman

This letter is in response to the comments from Mr. Sheldahl of Yuma Elementary School District. In the order of the comments: 1) the construction of the proposed complex will provide housing for approximately 780 employees. This should vacate 130 apartments that the owners currently lease throughout Yuma. Hopefully this will place those units back on the market for lease. 2) Company housing does not affect Code Requirements, the construction of company housing must comply with all requirements and building codes of the City of Yuma and the Department of Labor. 3) Affordable Housing is a problem throughout Yuma and the nation. This problem is entirely related to the cost of materials, cost of land, labor increases and utility costs. In the construction of Company Housing, these projects are burdened with these same increases.

In closing, the rezoning from R-3 to B-2 will not change affordable housing needs in Yuma. The intended use was an allowed use in both zoning districts. The ag industry in Yuma also suffers from the lack of housing. This project is designed to accommodate the needs of ag industry and the lack of housing for their employees.

Reply from James Sheldahl dated 1/14/2025:

**From:** James Sheldahl <jsheldahl@yuma.org>  
**Sent:** Tuesday, January 14, 2025 2:43 PM  
**To:** Erika Peterson  
**Subject:** Re: Zone 43438-2024 & Zone 43539-2024 Comments

 **CAUTION:** External Email

Thank you for clarification on this request. I did not realize that company housing was zoned commercial, rather than residential. I would welcome an opportunity to visit with Mr. Woodman to gain a broader understanding of the project and the potential downstream benefits.

Sincerely,  
Jamie

**ATTACHMENT F  
NEIGHBOR NOTIFICATION LIST**

<b>Property Owner</b>	<b>Mailing Address</b>	<b>City/State/Zip Code</b>		
AGREE CENTRAL LLC	32301 WOODWARD AVE	ROYAL OAK	MI	48073
BALBIN ALEJANDRINA	687 S 21ST AVE	YUMA	AZ	85364
CABRERA OLGARIO PEREZ	666 S 20TH AVE	YUMA	AZ	85364
CAFE MAIN STREET PROPERTIES LLC	PO BOX 2613	SALINAS	CA	93902
CALLE OCHO PROPERTIES LLC	1582 MOFFETT ST STE G	SALINAS	CA	93905
CARDENAS ROSA	1773 W 27TH DR	YUMA	AZ	85364
CARDIEL MARIA R	495 W 20TH ST	YUMA	AZ	85364
CHERNEK FRANCIS STEVEN & KATHLEEN JT	2554 W 16TH ST PMB 225	YUMA	AZ	85364
DE LA CRUZ JUAN & JESSICA BLANCO FAMILY TRUST 3-2-2023	9805 MANDALE ST	BELLFLOWER	CA	90706
ESKEW ELDON E & KAREN E TRUST 7-20-00	680 S 20TH AVE	YUMA	AZ	85364
FRYE ELVA I	683 S 21ST AVE	YUMA	AZ	85364
JOZA PROPERTIES LLC	1744 S 36TH DR	YUMA	AZ	85364
LERMA PAUL	685 S 21ST AVE	YUMA	AZ	85364
LIVELY BEVERLY J	676 S 20TH AVE	YUMA	AZ	85364
MTMM LLC	1700 S 1ST AVE STE 200	YUMA	AZ	85364
QUINTERO ANDRES &	681 S 21ST AVE APT A	YUMA	AZ	85364
REALTYNET AZ LLC	PO BOX 1017	CHARLOTTE	NC	28201
RIOS ROSA	688 S 20TH AVE	YUMA	AZ	85364
SADIK FAMILY TRUST 4-18-2024	1744 S 36TH DR	YUMA	AZ	85364
SHARPENSTEEN AMANDA J & CLAUDE K	740 S 24TH AVE	YUMA	AZ	85364
SILVA ROMAN O	697 S 21ST AVE	YUMA	AZ	85364
YOUNG AVELINA	689 S 21ST AVENUE	YUMA	AZ	85364
YUMA CITY OF	ONE CITY PLAZA	YUMA	AZ	85364
YUMA ELEMENTARY SCHOOL DISTRICT #1	450 W 6TH ST	YUMA	AZ	85364



ATTACHMENT H  
AERIAL PHOTO



**ORDINANCE NO. O2025-009**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 154 OF THE YUMA CITY CODE, REZONING CERTAIN PROPERTY LOCATED IN THE HIGH DENSITY RESIDENTIAL (R-3) DISTRICT TO THE GENERAL COMMERCIAL (B-2) DISTRICT, AND AMENDING THE ZONING MAP TO CONFORM WITH THE REZONING**

WHEREAS, the City of Yuma Planning and Zoning Commission held a public hearing on February 24, 2025 in Zoning Case No: ZONE- 43538-2024 in the manner prescribed by law for the purpose of rezoning approximately 4.18 acres of real property hereafter described to the General Commercial (B-2) District as provided in Chapter 154 of the Yuma City Code; and,

WHEREAS, due and proper notice of the public hearing was given in the time, form, substance and manner provided by law, including publication of notice of the hearing in the Yuma Sun on January 31, 2025; and,

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission to approve the rezoning in Case No: ZONE- 43538-2024 and the probable impact on the cost to construct housing for sale or rent that may occur as a result of this rezoning, and finds that the recommendation complies with and conforms to the goals and objectives of the Yuma General Plan, as amended.

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

SECTION 1: That the following described real property, depicted in Exhibit A, attached:

*That portion of the Southwest Quarter of Section 20, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, Arizona and being more particularly described as follows:*

*Lot 1 as per “**Pecan Garden Estates Subdivision**” plat as recorded in the Yuma County Recorder’s Office, Yuma County, Yuma Arizona, in Book 28, Page2. Fee# 2015-21970, Dated: 9-30-2015.*

*Containing 181,905 square feet or 4.1760 acres more or less.*

shall be placed in the General Commercial (B-2) District, as defined by Chapter 154 of the Yuma City Code as amended; that upon this Ordinance becoming final, the described real property shall be subject to all rules, regulations and requirements of Chapter 154 of the Yuma City Code, as amended, pertaining to the General Commercial (B-2) District and that the zoning map adopted under Chapter 154 of the Yuma City Code, as amended, is

ordered to be changed and amended so as to show that the real property described in this Ordinance will be located within the General Commercial (B-2) District.

SECTION 2: That the following conditions (s) must be met and/or completed in order for the zoning amendment to be final:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
3. In lieu of a Traffic Impact Statement/Study, the owner can furnish a statement of the number and times of the trips in/out by buses and/or vans as well as the number of people who will drive to location, park and transfer to the buses and/or vans. Also included in this statement should be how the owner will accommodate parking for those people who drive to/from the location daily for work. Owner will also agree to have a Traffic Impact Study done in the future, if the owner decides to change to standard multifamily housing. Owner will also agree to pay for improvements recommended in the study, should the project convert to standard multifamily housing in the future.

SECTION 3: With the exception of Condition 2, each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above time frame, then the rezone shall be subject to A.R.S. § 9-462.01.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

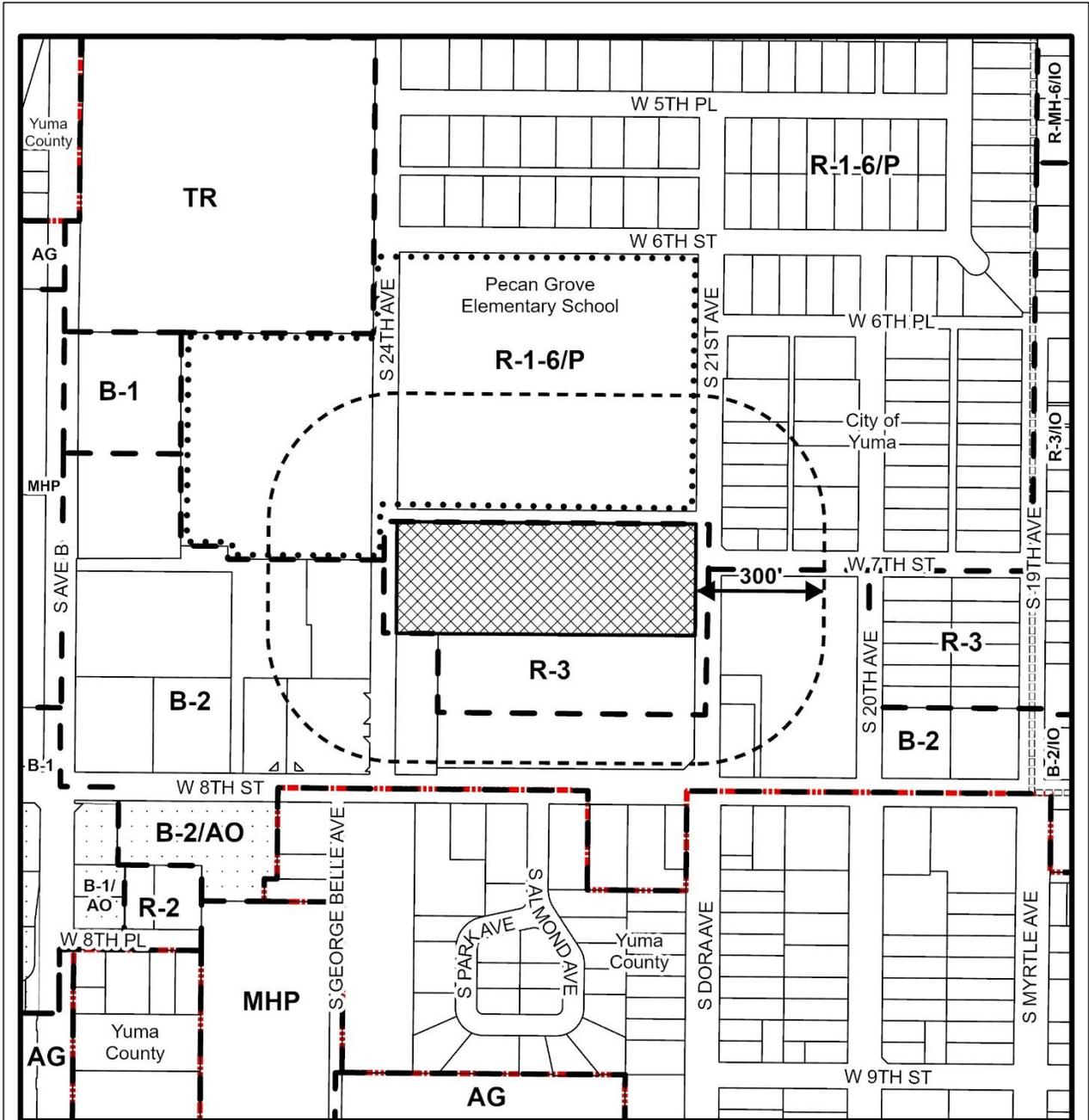
ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

# Exhibit A



## LOCATION MAP

 LOCATION OF SUBJECT PROPERTY

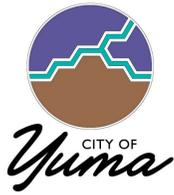


Prepared by: DG  
 Checked by: EP



Date: 12/26/2024  
 Revised:  
 Revised:

Case #:  
 ZONE-43538-2024



# City of Yuma

## City Council Report

File #: O2025-010

Agenda Date: 4/2/2025

Agenda #: 3.

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

**TITLE:**

**Rezoning of Property: Calle Ocho Properties, LLC**

**SUMMARY RECOMMENDATION:**

Rezone approximately 2.5 acres located at 764 S. 21<sup>st</sup> Avenue, Yuma, AZ from the High Density Residential (R-3) District to the General Commercial (B-2) District. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

**STRATEGIC OUTCOME:**

Approval of this rezone supports development in the City that will be responsibly constructed, meeting all codes and requirements. This rezone furthers the City Council's strategic outcomes of Safe and Prosperous and Respected and Responsible.

**REPORT:**

The subject property is located at 764 S. 21<sup>st</sup> Avenue and is approximately 4.3 acres. However, the requested rezone only relates to a portion of the property, approximately 2.5 acres as shown in Exhibit A attached to the proposed ordinance. Annexed into the City of Yuma on February 2, 1954, the property was recently the subject of a General Plan Amendment to change the designated land use from Low Density Residential to Commercial.

The property currently has two zoning designations: High Density Residential (R-3) and General Commercial (B-2). With this request the applicant is seeking to rezone 2.5 acres, a portion of the property, from the High Density Residential (R-3) District to the General Commercial (B-2) District resulting in a single zoning designation. The site is currently developed with 21 buildings, these buildings include company housing units, a garage, and an indoor recreation facility/laundry area. There are no plans to add additional buildings to the site, although new and future development will be required to meet City of Yuma development standards of the General Commercial (B-2) District.

The request to rezone the property from the High Density (R-3) District to the General Commercial (B-2) District conforms with the General Plan as requested by the applicant. That General Plan amendment will be heard was approved by City Council on February 19, 2025.

On February 24, 2025, the Planning and Zoning Commission voted 4-0 to recommend approval of the request to rezone the approximate 2.5 acres from the High Density Residential (R-3) District to the General Commercial (B-2) District for the property located at 764 S. 21<sup>st</sup> Avenue intersection, Yuma, AZ, subject to the

following conditions:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner’s signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.
3. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS § 9-462.01.

**PUBLIC COMMENTS - EXCERPT FROM PLANNING AND ZONING COMISSION MEETING MINUTES:**

Erika Peterson, Senior Planner summarized the staff report and recommended APPROVAL.

**QUESTIONS FOR STAFF**

None

**APPLICANT/APPLICANT’S REPRESENTATIVE**

None

**PUBLIC COMMENT**

None

“Motion by Loraine Arney, Planning and Zoning Commissioner second by Chelsea Malouff-Craig, Planning and Zoning Commissioner to APPROVE ZONE-43539-2024 as presented.

“Motion carried unanimously, (4-0) with two absent and one vacancy.’

Planning and Zoning Staff Report - Attached

**FISCAL REQUIREMENTS:**

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

TOTAL \$ 0.00

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

**FISCAL IMPACT STATEMENT:**

NOT APPLICABLE

**ADDITIONAL INFORMATION:**

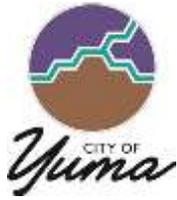
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 03/25/2025
Reviewed by City Attorney: Richard W. Files	Date: 03/23/2025



**STAFF REPORT TO THE PLANNING AND ZONING COMMISSION  
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES  
COMMUNITY PLANNING DIVISION  
CASE TYPE – REZONE  
CASE PLANNER: ERIKA PETERSON**

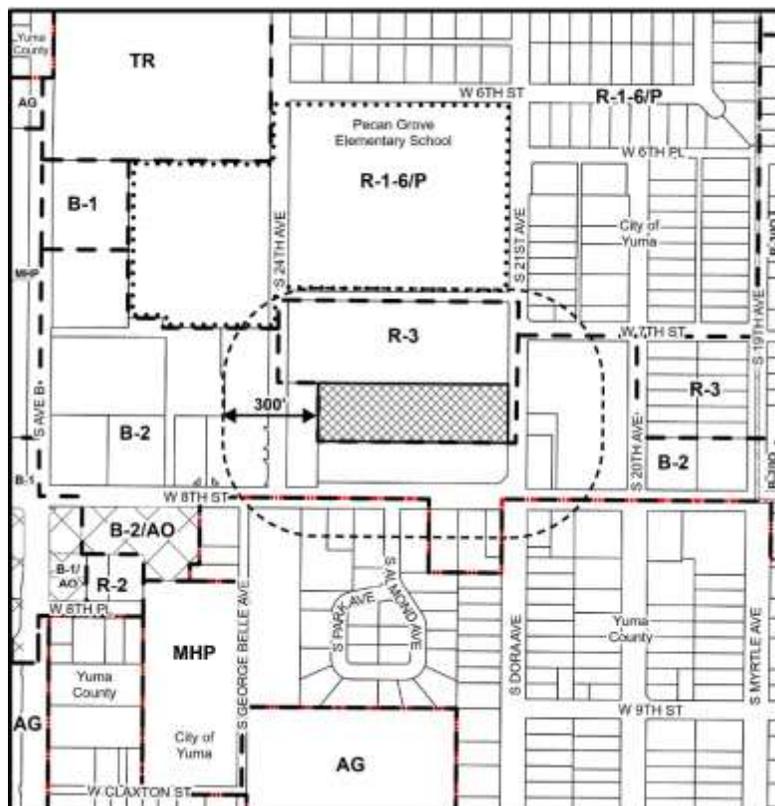
**Hearing Date:** February 24, 2025

**Case Number:** 43539-2024

**Project Description/ Location:** This is a request by Bob Woodman, on behalf of Calle Ocho Properties, to rezone approximately 2.5 acres from the High Density Residential (R-3) District to the General Commercial (B-2) District, for a portion of the property located at 764 S. 21<sup>st</sup> Avenue, Yuma, AZ.

	<b>Existing Zoning</b>	<b>Use(s) on-site</b>	<b>General Plan Designation</b>
<b>Site</b>	High Density Residential (R-3) and General Commercial (B-2)	Company Housing	Low Density Residential
<b>North</b>	High Density Residential (R-3)	Undeveloped	Low Density Residential
<b>South</b>	General Commercial (B-2) and Yuma County Limited Commercial (C-1)	Retail, Storage, Restaurant, Barbershop	Medium Density Residential
<b>East</b>	General Commercial (B-2)	Desert Palms MH & RV Park	Low Density Residential
<b>West</b>	General Commercial (B-2)	Family Dollar	Commercial

**Location Map**



**Prior site actions:** Annexation Ord. 605, February 2, 1954; Rezone Ord. 984 (Bus. B to Bus. B/Res. A); Subdivision Lot Tie Northwest Corner of 8<sup>th</sup> Street and S. 21<sup>st</sup> Avenue, Fee No. 2020-08044; Pre-Development Meeting: September 26, 2024; General Plan Amendment to Commercial to heard by City Council February 19, 2025

**Staff Recommendation:** Staff recommends **APPROVAL** of the rezoning from the High Density Residential (R-3) District to the General Commercial (B-2) District, subject to the conditions shown in Attachment A.

**Suggested Motion:** Move to **APPROVE** Rezone ZONE- 43539-2024 as presented, subject to the staff report, information provided during this hearing, and the conditions in Attachment A.

**Effect of the Approval:** By approving the rezone, the Planning and Zoning Commission is recommended approval to City Council for the request to rezone approximately 2.5 acres from the High Density Residential (R-3) District to the General Commercial (B-2) District for a portion of the property located at 764 S. 21<sup>st</sup> Avenue, Yuma, AZ, subject to the conditions outlined in Attachment A, and affirmatively finds that the request is in conformance with the City of Yuma General Plan.

**Staff Analysis:** The subject property is located at 764 S. 21<sup>st</sup> Avenue and is approximately 4.3 acres. However, the requested rezone only relates to a portion of the property, approximately 2.5 acres as indicated. Annexed into the City of Yuma on February 2, 1954, the property was recently the subject of a General Plan Amendment to change the designated land use from Low Density Residential to Commercial.

The property currently has two zoning designations: High Density Residential (R-3) and General Commercial (B-2). With this request the applicant is seeking to rezone 2.5 acres, a portion of the property, from the High Density Residential (R-3) District to the General Commercial (B-2) District resulting in a single zoning designation. The site is currently developed with 21 buildings, these buildings include company housing units, a garage, and an indoor recreation facility/laundry area. There are no plans to add additional buildings to the site, however, new and future development will be required to meet City of Yuma development standards of the General Commercial (B-2) District.

The request to rezone the property from the High Density (R-3) District to the General Commercial (B-2) District conforms with the General Plan as requested by the applicant. That General Plan amendment will be heard by the City of Yuma City Council on February 19, 2025.

**1. Does the proposed zoning district conform to the Land Use Element?** Yes

<b>Land Use Element:</b>									
Land Use Designation:				Commercial					
Issues:				None					
Historic District:	Brinley Avenue		Century Heights		Main Street		None	X	
Historic Buildings on Site:		Yes	No	X					

**2. Are there any dedications or property easements identified by the Transportation Element?**  
No.

FACILITY PLANS						
Transportation Master Plan	Planned	Existing	Gateway	Scenic	Hazard	Truck
21 <sup>st</sup> Avenue-Local Road 2 Lanes	29 FT HW	30 FT HW				
8 <sup>th</sup> Street- Minor Arterial 4 Lanes	50 FT HW	40 FT HW		X		X
Bicycle Facilities Master Plan	8 <sup>th</sup> Street- Proposed bike lane, 21 <sup>st</sup> Avenue- Proposed bike route					
YCAT Transit System	8 <sup>th</sup> Street at Avenue B and 8 <sup>th</sup> Street at Magnolia- Purple Route 6A					
Issues:	None					

3. Does the proposed rezoning of the property conform to the remaining elements of the general plan? Yes.

Parks, Recreation and Open Space Element:							
Parks and Recreation Facility Plan							
Neighborhood Park:	Existing: Kiwanis Park			Future: Kiwanis Park			
Community Park:	Existing: Carver Park Complex			Future: Carver Park Complex			
Linear Park:	Existing: West Main Canal Linear Park			Future: Thacker Lateral Linear Park			
Issues:	None						
Housing Element:							
Special Need Household:	N/A						
Issues:	None						
Redevelopment Element:							
Planned Redevelopment Area:	N/A						
Adopted Redevelopment Plan:	North End:		Carver Park:		None:	X	
Conforms:	Yes		No		N/A		
Conservation, Energy & Environmental Element:							
Impact on Air or Water Resources	Yes		No	X			
Renewable Energy Source	Yes		No	X			
Issues:	None						
Public Services Element:							
Population Impacts Population projection per 2018-2022 American Community Survey Police Impact Standard: 1 officer for every 530 citizens; 2020 Conservation Plan Water demand: 207 gallons/day/person; Wastewater generation: 70 gallons per day per person	Dwellings & Type		Projected Population	Police Impact	Water Consumption		Wastewater Generation
	<i>Non-residential</i>						
	Maximum	Per Unit		Officers	GPD	AF	GPD
	0	0	0	0.00	0	0.0	0
Minimum							
0	0	0	0.00	0	0.0	0	
Fire Facilities Plan:	Existing: Fire Station No. 4			Future: Northwest Valley			
Water Facility Plan:	Source:	City	X	Private	Connection:	6" AC line on S. 21 <sup>st</sup> Avenue	
Sewer Facility Plan:	Treatment:	City	X	Septic	Private	Connection: 8" VCP line in parcel	
Issues:	None						
Safety Element:							
Flood Plain Designation:	500 Year Flood		Liquefaction Hazard Area:		Yes	No	X
Issues:	None						
Growth Area Element:							
	Araby Rd & Interstate 8		Arizona Ave & 16 <sup>th</sup> St		Avenue B & 32 <sup>nd</sup> St.		

Growth Area:	North End		Pacific Ave & 8 <sup>th</sup> St		Estancia		None	X	
Issues:	None								

**4. Does the proposed rezoning conform to the adopted facilities plan?**

Yes.

**5. Does the proposed rezoning conform to Council's prior approval of rezonings, development agreements or subdivisions for this site?**

Yes.

**Public Comments Received:** None Received.

**External Agency Comments:** See Attachment C

**Neighborhood Meeting Comments:** No Meeting Required.

**Proposed conditions delivered to applicant on:** 1/30/2025

**Final staff report delivered to applicant on:** 2/10/2025

- Applicant agreed with all of the conditions of approval on: (enter date)
- Applicant did not agree with the following conditions of approval: (list #'s)
- Conditions of approval were emailed to the applicant on 1/30/2025 and we staff is currently awaiting a response.

**Attachments**

A	B	C	D	E	F
Conditions of Approval	Agency Notifications	Agency Comments	Neighbor Notification List	Neighbor Postcard	Aerial Photo

**Prepared By:** *Erika Peterson* **Date:** 1/29/2025

Erika Peterson  
Senior Planner  
[Erika.Peterson@YumaAZ.Gov](mailto:Erika.Peterson@YumaAZ.Gov) (928)373-5000, x3071

**Reviewed By:** *Jennifer L. Albers* **Date:** 2/3/25

Jennifer L. Albers  
Assistant Director of Planning

**Approved By:** *Alyssa Linville* **Date:** 02/11/2025

Alyssa Linville  
Director, Planning and Neighborhood Services

**ATTACHMENT A  
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

**Department of Planning and Neighborhood Services Comments: Alyssa Linville, Director (928) 373-5000, x 3037:**

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

**Community Planning, Erika Peterson, Senior Planner, (928) 373-5000 x3071**

3. Each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS § 9-462.01.

**Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.**

**ATTACHMENT B  
AGENCY NOTIFICATIONS**

- **Legal Ad Published: The Sun** 1/31/2025
- **300' Vicinity Mailing:** 1/6/2025
- **34 Commenting/Reviewing Agencies noticed:** 1/9/2025
- **Site Posted on:** 2/18/2025
- **Neighborhood Meeting:** N/A
- **Hearing Date:** 2/24/2025
- **Comments due:** 1/20/2025

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	YES	1/9/2025	X		
Yuma County Engineering	NR				
Yuma County Public Works	YES	1/9/2025	X		
Yuma County Water Users' Assoc.	YES	1/10/2025	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	NR				
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
USDA – NRCS	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	1/13/2025	X		
Ft. Yuma Quechan Tribe	YES	1/9/2025	X		
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
Police	NR				
Parks & Recreation	NR				
Development Engineer	NR				
Fire	YES	1/13/2025	X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	1/20/2025	X		
Utilities	NR				
Public Works	NR				
Streets	NR				



1/14/2025

TO: Jamie Sheldahl  
Yuma Elementary School District #1

CO: Erika Peterson  
City of Yuma

FROM: Bob Woodman

This letter is in response to the comments from Mr. Sheldahl of Yuma Elementary School District. In the order of the comments: 1) the construction of the proposed complex will provide housing for approximately 780 employees. This should vacate 130 apartments that the owners currently lease throughout Yuma. Hopefully this will place those units back on the market for lease. 2) Company housing does not affect Code Requirements, the construction of company housing must comply with all requirements and building codes of the City of Yuma and the Department of Labor. 3) Affordable Housing is a problem throughout Yuma and the nation. This problem is entirely related to the cost of materials, cost of land, labor increases and utility costs. In the construction of Company Housing, these projects are burdened with these same increases.

In closing, the rezoning from R-3 to B-2 will not change affordable housing needs in Yuma. The intended use was an allowed use in both zoning districts. The ag industry in Yuma also suffers from the lack of housing. This project is designed to accommodate the needs of ag industry and the lack of housing for their employees.

Reply from James Sheldahl dated 1/14/2025:

**From:** James Sheldahl <jsheldahl@yuma.org>  
**Sent:** Tuesday, January 14, 2025 2:43 PM  
**To:** Erika Peterson  
**Subject:** Re: Zone 43438-2024 & Zone 43539-2024 Comments

 **CAUTION:** External Email

Thank you for clarification on this request. I did not realize that company housing was zoned commercial, rather than residential. I would welcome an opportunity to visit with Mr. Woodman to gain a broader understanding of the project and the potential downstream benefits.

Sincerely,  
Jamie

**ATTACHMENT D  
NEIGHBOR NOTIFICATION LIST**

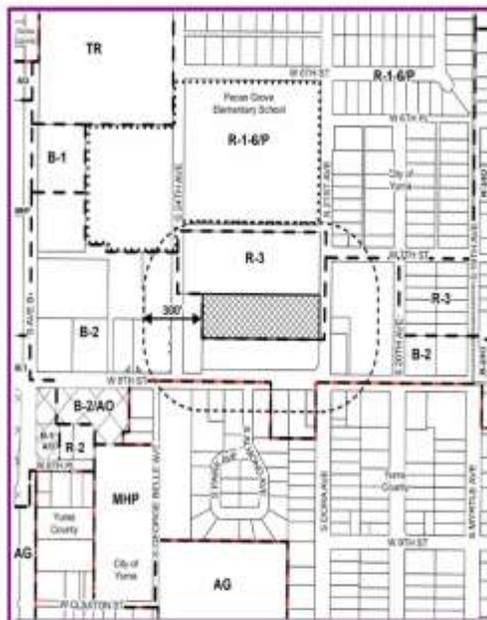
<b>Property Owner</b>	<b>Mailing Address</b>	<b>City/State/Zip Code</b>		
AGREE CENTRAL LLC	32301 WOODWARD AVE	ROYAL OAK	MI	48073
CAFE MAIN STREET PROPERTIES LLC	PO BOX 2613	SALINAS	CA	93902
CALLE OCHO PROPERTIES LLC	1582 MOFFETT ST STE G	SALINAS	CA	93905
CARDIEL MARIA R	495 W 20TH ST	YUMA	AZ	85364
CHERNEK FRANCIS STEVEN & KATHLEEN JT	2554 W 16TH ST PMB 225	YUMA	AZ	85364
DAISY BLAIR RV PARK	534 E LAUREN ASHLEY PL	ORO VALLEY	AZ	85737
DE LA CRUZ JUAN & JESSICA BLANCO FAMILY TRUST 3-2-2023	9805 MANDALE ST	BELLFLOWER	CA	90706
GARRIDO ANSELMO DIAZ & GEORGINA LOPEZ CPWROS	2007 W 8TH ST	YUMA	AZ	85364
JACOBSON DEV CO	1334 S 5TH AVE	YUMA	AZ	85364
JACOBSON DEVELOPMENT CO AZ CORP	1334 S 5TH AVE	YUMA	AZ	85364
JOO JOON H	18446 N 75TH AVE	GLENDALE	AZ	85308
JOZA PROPERTIES LLC	1744 S 36TH DR	YUMA	AZ	85364
REALTYNET AZ LLC	PO BOX 1017	CHARLOTTE	NC	28201
ROSKO HOLDINGS AZ LLC	13169 S AVE 4 1/2 E	YUMA	AZ	85365
ROSKO HOLDINGS LLC	13169 S AVE 4 1/2 E	YUMA	AZ	85365
SADIK FAMILY TRUST 4-18-2024	1744 S 36TH DR	YUMA	AZ	85364
SCARBOROUGH ROBERT T & ZUNELDA M TRUST 5-10-2011	3325 S 14TH AVE	YUMA	AZ	85365
SHARPENSTEEN AMANDA J & CLAUDE K	740 S 24TH AVE	YUMA	AZ	85364
SHAY OIL CO INC	PO BOX 1249	YUMA	AZ	85366
SILVA ROMAN O	697 S 21ST AVE	YUMA	AZ	85364
VALLEY CHURCH OF CHRIST	897 W 35TH PL	YUMA	AZ	85365
YOUNG AVELINA	689 S 21ST AVENUE	YUMA	AZ	85364
YUMA CITY OF	ONE CITY PLAZA	YUMA	AZ	85364
YUMA ELEMENTARY SCHOOL DISTRICT #1	450 W 6TH ST	YUMA	AZ	85364

**ATTACHMENT E  
NEIGHBOR MAILING**

This is a request by Bob Woodman, on behalf of Calle Ocho Properties, to rezone approximately 2.5 acres from the High Density Residential (R-3) District to the General Commercial (B-2) District, for a portion of the property located at 764 S. 21<sup>st</sup> Avenue, Yuma, AZ.

**MEETING DATE,  
TIME & LOCATION  
FOR CASE #  
ZONE-43539-2024**

**PUBLIC HEARING**  
02/24/2025@ 4:30pm  
City Hall Council Chambers  
One City Plaza, Yuma, AZ



ATTACHMENT F  
AERIAL PHOTO



**ORDINANCE NO. O2025-010**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 154 OF THE YUMA CITY CODE, REZONING CERTAIN PROPERTY LOCATED IN THE HIGH DENSITY RESIDENTIAL (R-3) DISTRICT TO THE GENERAL COMMERCIAL (B-2) DISTRICT, AND AMENDING THE ZONING MAP TO CONFORM WITH THE REZONING**

WHEREAS, the City of Yuma Planning and Zoning Commission held a public hearing on February 24, 2025 in Zoning Case No: ZONE- 43539-2024 in the manner prescribed by law for the purpose of rezoning approximately 2.34 acres of real property hereafter described to the General Commercial (B-2) District as provided in Chapter 154 of the Yuma City Code; and,

WHEREAS, due and proper notice of the public hearing was given in the time, form, substance and manner provided by law, including publication of notice of the hearing in the Yuma Sun on January 31, 2025; and,

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission to approve the rezoning in Case No: ZONE- 43539-2024 and the probable impact on the cost to construct housing for sale or rent that may occur as a result of this rezoning, and finds that the recommendation complies with and conforms to the goals and objectives of the Yuma General Plan, as amended.

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

SECTION 1: That the following described real property, depicted in Exhibit A, attached:

*That portion of the Southwest Quarter of Section 20, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, Arizona and being more particularly described as follows:*

*The North 170.00'± feet of Parcel 1 as per “Calle Ocho Lot Tie” plat as recorded in the Yuma County Recorder’s Office, Yuma County, Yuma Arizona, in Book 31, Page57. Fee# 2020-08044, Dated: 3-12-2020.*

*Containing 102,000.02 square feet or 2.34 acres more or less.*

shall be placed in the General Commercial (B-2) District, as defined by Chapter 154 of the Yuma City Code as amended; that upon this Ordinance becoming final, the described real property shall be subject to all rules, regulations and requirements of Chapter 154 of the Yuma City Code, as amended, pertaining to the General Commercial (B-2) District and that the zoning map adopted under Chapter 154 of the Yuma City Code, as amended, is

ordered to be changed and amended so as to show that the real property described in this Ordinance will be located within the General Commercial (B-2) District.

SECTION 2: That the following conditions (s) must be met and/or completed in order for the zoning amendment to be final:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

SECTION 3: With the exception of Condition 2, each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above time frame, then the rezone shall be subject to A.R.S. § 9-462.01.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

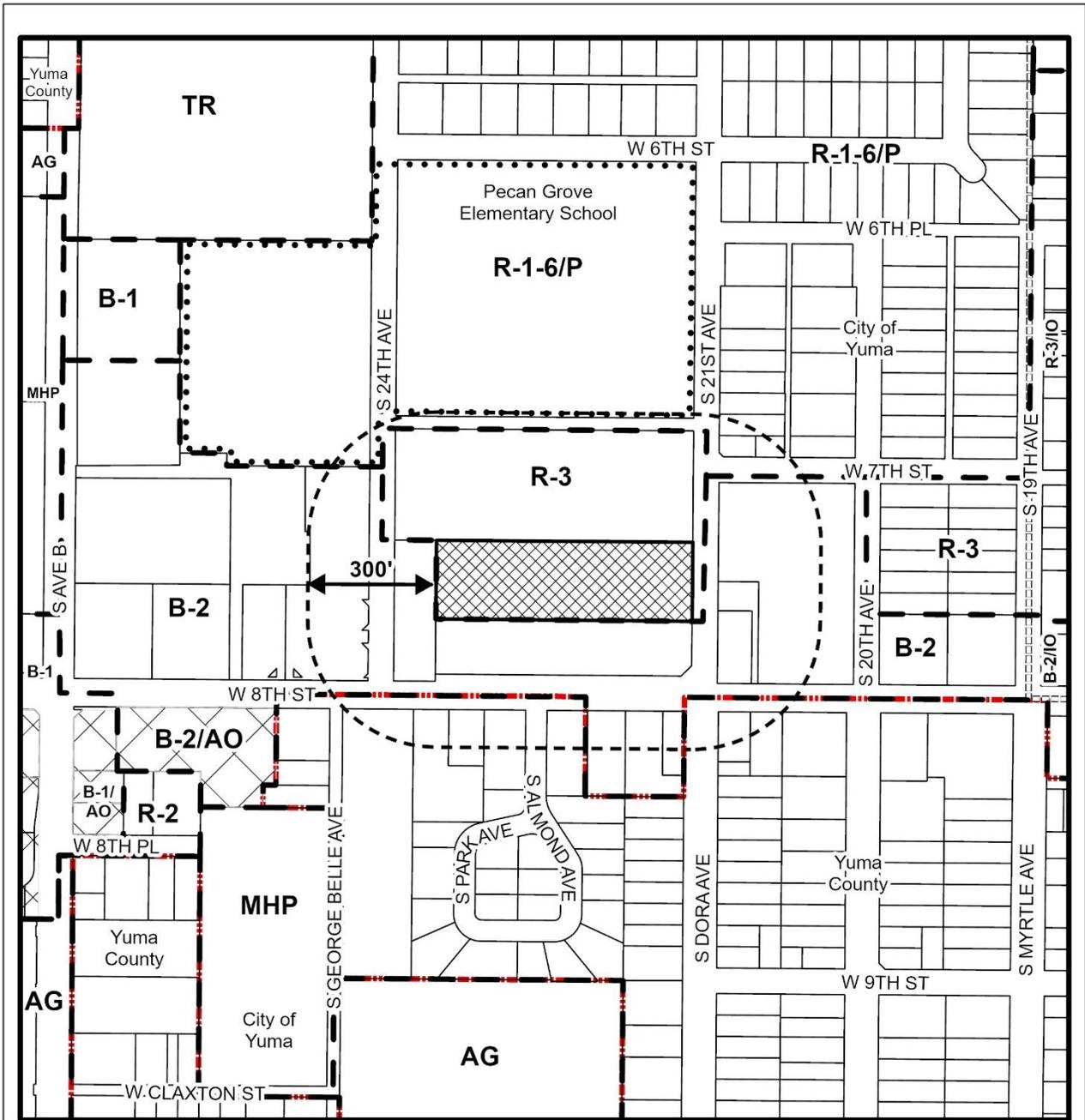
ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

Exhibit A



LOCATION MAP

 LOCATION OF SUBJECT PROPERTY



Prepared by: DG  
Checked by: EP



Date: 12/26/2024  
Revised:  
Revised:

Case #:  
ZONE-43539-20241



# City of Yuma

## City Council Report

**File #:** O2025-011

**Agenda Date:** 4/2/2025

**Agenda #:** 4.

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

**TITLE:**

**Statutory Compliance Hearing/Amendment: Ordinance O2003-12**

**SUMMARY RECOMMENDATION:**

Pursuant to A.R.S. § 9-462.01, determine compliance with the conditions of approval for rezoning Ordinance O2003-12, and introduce an ordinance to amend O2003-12 to remove conditions and extend the time to comply with the rezoning conditions. (Planning and Neighborhood Services/Community Planning) (Alyssa Linville)

**STRATEGIC OUTCOME:**

This statutory compliance hearing and ordinance will validate the zoning for commercial development that will be responsibly constructed, meeting all codes and requirements. This statutory compliance hearing furthers the City Council's strategic outcomes of Safe and Prosperous and Respected and Responsible.

**REPORT:**

On March 19, 2003, the City Council adopted Ordinance O2003-12, authorizing the property located at 5574 E. 32<sup>nd</sup> Street, Yuma, Arizona, to be rezoned from the Agriculture (AG) District to the Limited Commercial (B-1) District. Ordinance O2003-12 required that the following conditions of approval be completed within three (3) years of approval:

1. A one-foot (1') non-access easement shall be provided over the entire 32<sup>nd</sup> Street frontage with the exception of any access approved by the Department of Community Development.
2. A Traffic Impact Analysis (traffic study) shall be conducted in accordance with City of Yuma Construction Standard No. 2-100 and the latest edition of the ADOT Traffic Impact Analysis for the proposed development. All suggested improvements outlined by the Traffic Impact Analysis shall be constructed by the applicant.
3. A raised median covenant shall be recorded on the property that acknowledges that medians are anticipated to be constructed within 32<sup>nd</sup> Street adjacent to the property, which may limit left turning movements into and out of the site.
4. The applicant/developer shall make a contribution for the traffic signal at the intersection of Avenue 5 1/2E and 32<sup>nd</sup> Street in the amount of \$1,020, which is equivalent to \$200.00 per acre.

5. The south half of the 'B' Canal, approximately forty-six feet (46'), along the north property line shall be dedicated to the City of Yuma, by plat or by warranty deed, to facilitate the future development of the linear park.
6. One hundred foot (100') half-width roadway easement for 32<sup>nd</sup> Street shall be converted into fee title right-of-way dedicated to the City of Yuma.
7. Each of the conditions listed above shall be completed within three (3) years of the effective date of the rezoning ordinance or as provided for in a development agreement. In the event the conditions are not completed within this time frame, the applicable rezoning shall be null and void.

The property was rezoned as a single zoning case (Z2002-17) in which conditional zoning to the Limited Commercial (B-1) District was approved, based upon the completion of seven conditions of approval within three years. The property owner did not complete all the necessary conditions of approval and as a result, the zoning expired.

While Conditions #1 and #3 were completed with the recording of Fee #2007-07672 & 07673, several other conditions are either no longer necessary, will be met in an alternative manner, or need to be addressed during the actual development of the ultimate commercial project. Condition #5 would remain as is.

It is requested that Condition #4 be removed as this type of exaction was replaced with Citywide-adopted Impact Development Fees which will be assessed at the time of building permit issuance, and Condition #2 be reworded to require that a determination of the need for a Traffic Impact Analysis be reviewed at the time of actual development, and Condition #6 be reworded to reflect updated right-of-way exchange and dedication policies along 32<sup>nd</sup> Street, and the length of time to comply with the conditions be extended from three years to twenty-seven years. This would extend the conditional zoning to March 19, 2030 which is five years from the present- giving the developer sufficient time to formulate their ultimate commercial use for the property.

The revised Conditions #2, #6, & #7 would be as follows:

2. A Traffic Impact Analysis (traffic study) shall be conducted in accordance with City of Yuma Construction Standard No. 2-100 and the latest edition of the ADOT Traffic Impact Analysis for the proposed development. **will be required at the time of development if the proposed development meets the thresholds/requirements of City Standard 2-040.** All suggested improvements outlined by the Traffic Impact Analysis shall be constructed by the applicant.
6. One hundred foot (100') half-width roadway easement for 32<sup>nd</sup> Street shall be converted into fee title right-of-way dedicated to the City of Yuma-; **then implement a right-of-way exchange agreement, with the City of Yuma keeping the south 80 feet and abandoning the north 20 feet to the adjacent property while reserving an easement for any utilities in that 20 feet.**
7. Each of the conditions listed above shall be completed within ~~three (3)~~ **twenty-seven (27)** years of the effective date of the rezoning ordinance or as provided for in a development agreement. In the event the conditions are not completed within this time frame, the applicable rezoning shall be null and void.

#### DETERMINATION:

Arizona Revised Statutes § 9-462.01(E) states that if the time for completion of a condition has expired, the City shall notify the owner, schedule a public hearing, and take administrative action to "extend, remove, or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification." In this case, the property owner agrees with the proposed changes to

the conditions, and still wants the property rezoned to the Limited Commercial (B-1) District, as they are ready to proceed with the development of a commercial project,

**RECOMMENDATION:**

At the close of the public hearing, staff recommends that City Council introduce the attached ordinance which amends Ordinance O2003-12 by removing Condition #4, revising Conditions #2 and 6, and extending the deadline to comply with the conditions of approval for the rezone from three years to twenty-seven years.

**FISCAL REQUIREMENTS:**

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

**FISCAL IMPACT STATEMENT:**

NONE

**ADDITIONAL INFORMATION:**

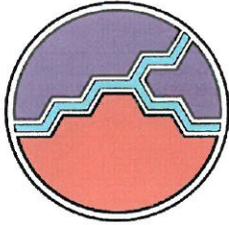
SUPPORTING DOCUMENTS NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT ARE ON FILE IN THE OFFICE OF THE CITY CLERK:

NONE

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

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

Acting City Administrator: John D. Simonton	Date: 03/25/2025
Reviewed by City Attorney: Richard W. Files	Date: 03/23/2025



**STAFF REPORT TO THE PLANNING AND ZONING COMMISSION**  
**CASE #: Z2002-017**  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
COMMUNITY PLANNING – CASE REVIEW TEAM

**Hearing Date:** January 13, 2003

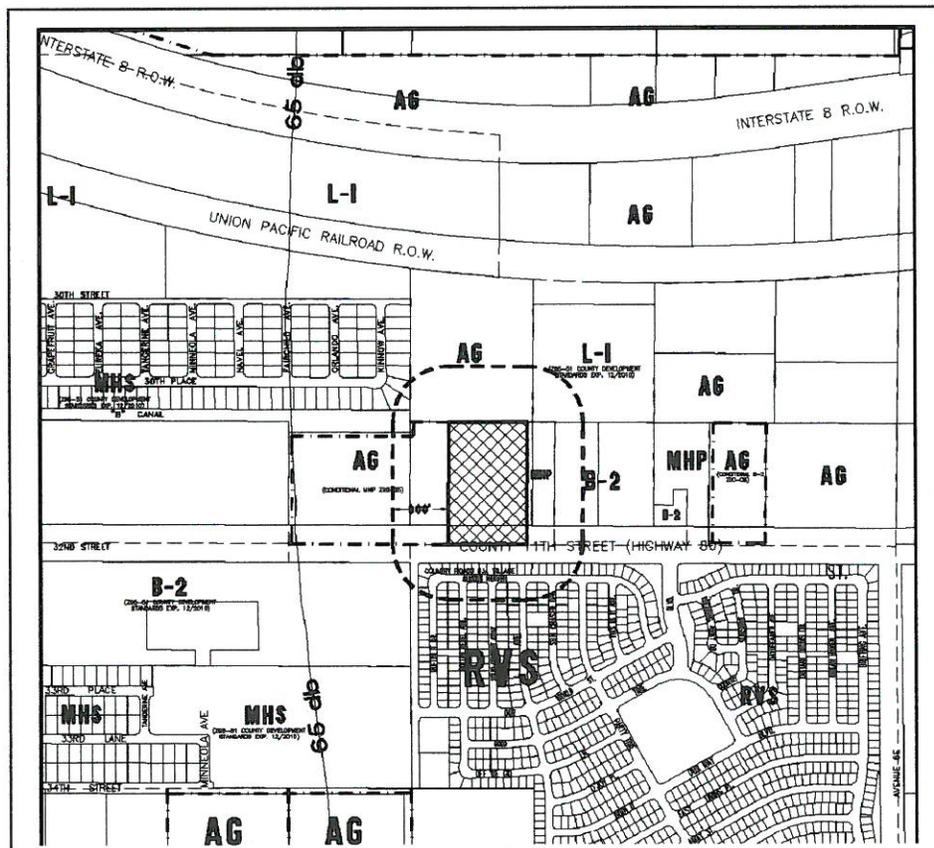
**Project Planner:** Scott Langford, Assistant Planner (928) 373-5000 Ext: 3039

**E-mail:** Scott.Langford@ci.yuma.az.us

**Project Description:** This is a request by Nicklaus Engineering on behalf of the Perry Trust to rezone property from the Agriculture (AG) District to the Limited Commercial (B-1) District. The property is located at 5574 E. 32<sup>nd</sup> Street, Yuma, AZ.

**Staff Recommendation:** Staff recommends **APPROVAL** of the rezoning of the property from the Agriculture (AG) District to the Limited Commercial (B-1) District, subject to the conditions outlined on Attachment B.

**LOCATION MAP**



**I. PROJECT DATA**

Project Location:	5574 E. 32 <sup>nd</sup> Street, Yuma, AZ.
Parcel Number(s):	112-13-028
Address:	5574 E. 32 <sup>nd</sup> Street, Yuma, AZ.
Applicant:	Perry Trust
Applicant's Agent:	Nicklaus Engineering
Zoning of the Site:	Agriculture
Existing Land Use(s) on the Site:	Vacant
Surrounding Zoning and Land Uses:	
○ North:	Zoned AG; Vacant
○ South:	Zoned RVS; R.V. Subdivision (Country Roads)
○ East:	Zoned MHP; Last Resort RV Park
○ West:	Zoned Cond. MHP; AZ Sands RV Park
Related Actions or Cases:	
Land Division Status:	Parcel is a legal lot of record.
Flood Plain Designation:	Zone "B"

**II. GENERAL PLAN**

Land Use Plan	Mixed Use		
Circulation Element:	<u>Planned</u>	<u>Existing</u>	<u>Needed</u>
Expressway: 32 <sup>nd</sup> Street	100' H/W ROW	100' H/W ROW	0' H/W ROW
Raised Median Covenant	Yes	No	Yes
Parks and Recreation Element:			
Nearest Neighborhood Park:	Wal-mart Park		
Nearest Area Park:	Kennedy Park		
Nearest Linear Park:	"B" Canal Linear Park (Proposed)		
Water:	16" ACP within 32 <sup>nd</sup> Street		
Sewer:	N/A		
Fire Facilities Plan:			
Existing:	Fire Station #5		
Proposed:	Fire Station #5		
Bicycle Element	N/A		

**III. SCHOOLS**

School District:	YSD #1
------------------	--------

**IV. PRO RATA**

Pro Rata Area: Per Acre Fee	N/A
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**PUBLIC NOTICES:**

Legal Ad Published: Yuma Sun on December 27, 2002

300' Vicinity Mailing Deadline: December 23, 2002

Site Posted: N/A

**COMMENTING/REVIEWING AGENCIES**

30 agencies/people were notified on December 6, 2002. Comments were due on December 16, 2002.

<b>Agency/Person Notified</b>	<b>Response Received</b>	<b>Date Received</b>	<b>“No Comment” response</b>	<b>Written Comment (attached)</b>
<b><i>External List</i></b>				
Yuma County Airport Authority	No	NR		
Yuma County Engineering Division	No	NR		
Yuma County Public Works	No	NR		
Yuma County Water Users	No	NR		
Yuma County P & Z	No	NR		
Arizona Public Service	No	NR		
Adelphia Communications	Yes	12/16/2002	X	
Southwest Gas	No	NR		
Qwest Communications	No	NR		
MCAS / C P & L Office	Yes	12/18/2002	X	
Bureau of Land Management	No	NR		
YUHS District #70	No	NR		
Yuma Elementary School District #1	No	NR		
Crane School District #13	No	NR		
AZ Dept of Transportation	Yes	12/19/2002		X
Yuma Irrigation District	No	NR		
Arizona Fish & Game Dept.	No	NR		
USDA-NRCS	No	NR		
YMPO	Yes	12/13/2002		X
<b><i>Internal List</i></b>				
Ray Urias, Asst. City Attorney	Yes	12/16/2002	X	
Bob Stull, Finance Director	No	NR		
Mike Erfert, Police Department	Yes	12/15/2002	X	
Ray Duran, Community Policing	No	NR		
Ron Ramirez, Parks	Yes	12/13/2002	X	
Andrew McGarvie, Engineering	No	NR		
Doug Hipp, Engineering	Yes	12/16/2002		X
Art Castricone, Fire Marshall	Yes	12/17/2002	X	
John Curts, Econ Dev	Yes	12/12/2002	X	
Larry Nichols, Chief Building Official	Yes	12/18/2002	X	
Paul Brooberg – Public Works	No	NR		
Fred Orcutt, Traffic Engineer	Yes	12/13/2002		X
<b><i>NR=None Received</i></b>				

**RESPONSES FROM THE PUBLIC:**

No Comment

**BACKGROUND AND DESCRIPTION OF THE SITE:**

The property consists of approximately 2.27 acres with frontage on 32<sup>nd</sup> Street. The site is currently vacant. The applicant is requesting that the property be rezoned from the Agriculture District to the Limited Commercial (B-1) District. This parcel was annexed into the city on August 7, 1999 (#O99-043). Prior to annexation the property was zoned "C-2" in the County. Future development plans are uncertain at this point, but may include construction of retail sales, restaurant and/or office space.

**Analysis:**

With the increased development of the 32<sup>nd</sup> Street corridor, the request to rezone the property from the Agriculture District to the Limited Commercial District is in conformance to the current surrounding land uses.

The Land Use Plan element in the City of Yuma General Plan indicates that this parcel is categorized as a Mixed Use designation. The proposal to rezone the property to the Limited Commercial District is an allowed District within this designation. Therefore the applicant's request for rezoning is in conformance with the General Plan and surrounding land use.

**32<sup>nd</sup> Street**

The Major Roadways Plan identifies 32<sup>nd</sup> Street as an expressway, which requires at least a half width right-of-way of one hundred feet (100') adjacent to the property. Currently, a one hundred foot (100') half width road easement exists adjacent to the property and Staff recommends that the underlying property ownership of this easement be dedicated to the City.

In accordance with the Major Roadways Plan limited access points are recommended to control and direct traffic accordingly. Therefore, a one-foot (1') non-access easement is recommended to be provided over the entire 32<sup>nd</sup> Street.

The City standards allow for center-raised medians on major streets that may limit left turning movements into and out of the site. Therefore, it is recommended that a raised median covenant be recorded on the property that acknowledges that medians may be constructed within 32<sup>nd</sup> Street adjacent to the property.

At such time as the property is developed as a commercial use, there shall be adequate screening between the commercial use(s) and the adjacent residential uses as per section 154-218 (E) of the City Code.

***Street Improvements***

A traffic signal is planned to be installed at the intersection of Avenue 51/2 E and 32<sup>nd</sup> Street, therefore a contribution towards the signal at \$200.00 per acre will be required from the property owners or developers, resulting in a cost of approximately \$1,080.

A traffic impact study will be required when development occurs on this property based on construction standard 2-100 and performed in accordance with the ADOT Traffic Manual Section 240 for any category 1 or larger development. Items identified in said traffic impact study shall be designed, constructed, and financed by the applicant. No compensation shall be provided to the applicant/developer by the City of Yuma for those identified items.

All access from the state highway system shall be obtained through the ADOT encroachment permit process.

**PARKS AND RECREATION:**

In accordance with the City of Yuma Parks and Recreation Element, a linear park is designated in the Parks and Recreation's build out plan along the B Canal which will develop a Linear Park and a trail system, for walking and cycling along the B Canal from Avenue 4E to Avenue 7E. Therefore, Staff recommends that forty-six feet (46') be dedicated on the north side of the property line that runs adjacent to the B Canal to the City of Yuma, Arizona.

**MEETINGS/DISCUSSIONS WITH APPLICANT:**

Staff faxed a copy of the staff report to the applicant for their review. The applicant did not have any problems with the conditions of approval. E-mailed Final Draft to Nicklaus Engineering on 12/26/2002.

**STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of the rezoning of the property from the Agriculture (AG) District to the Limited Commercial (B-1) District, subject to the conditions outlined on Attachment B, because the request is consistent with the General Plan and is compatible with the surrounding zoning and land uses.

**SUGGESTED MOTION:**

Motion to **APPROVE** the rezoning from the Agriculture (AG) District to the Limited Commercial (B-1) District, because of the reasons stated in the staff report.

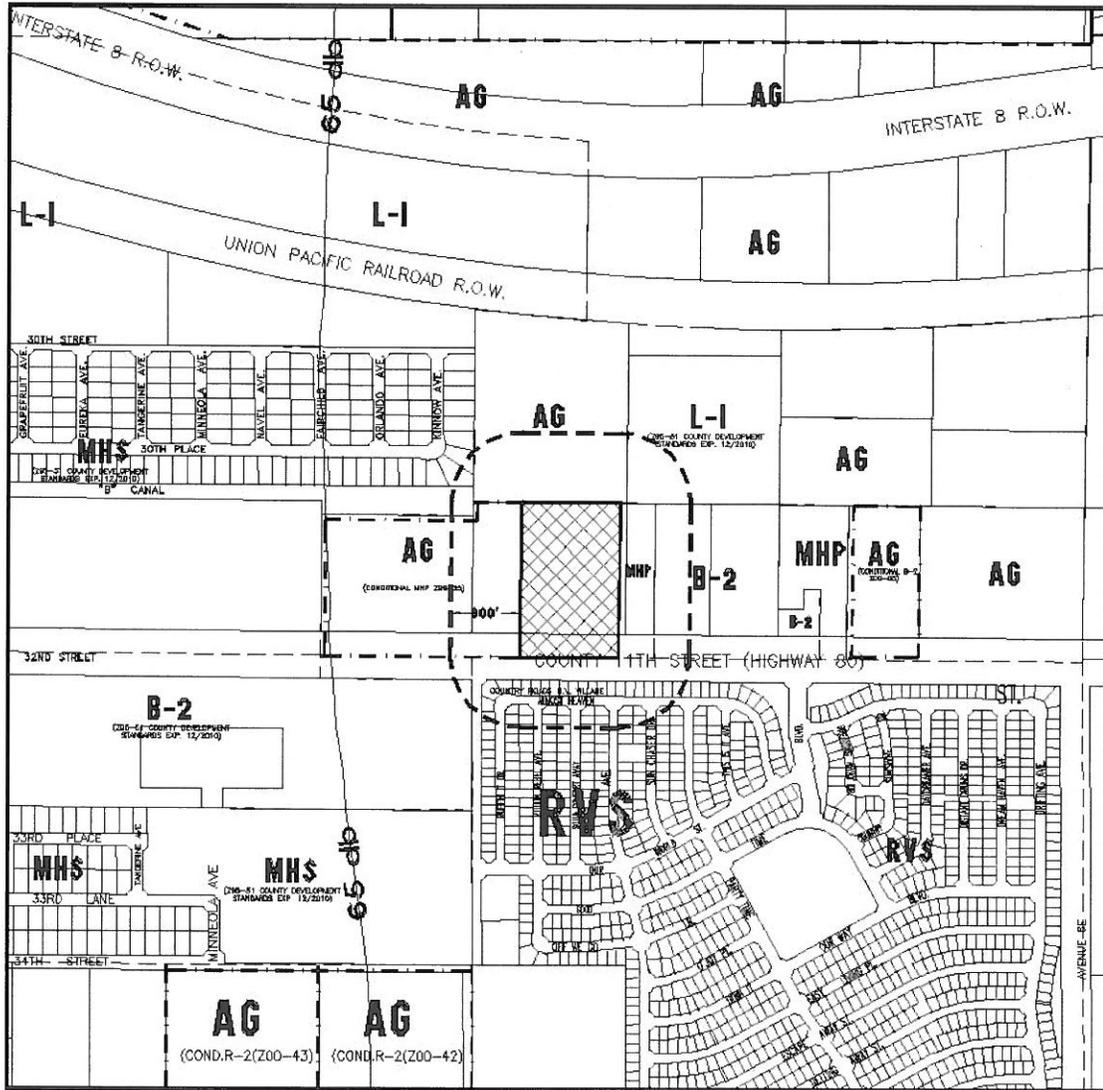
**ATTACHMENTS:**

- A. Location Map
- B. Conditions of Approval
- C. Aerial Photo (Planning and Zoning Commission Only)

PREPARED BY:   
Date: 12/26/02 Scott Langford

REVIEWED BY:   
Date: 12.26.02 Laurie Lineberry, AICP

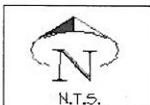
# ATTACHMENT A LOCATION MAP



## LOCATION MAP



**LOCATION OF SUBJECT PROPERTY**



Prepared by: *E.G.*  
Checked by:



Date: 12-06-02  
Revised:  
Revised:

Case no.:  
**Z2002-017**

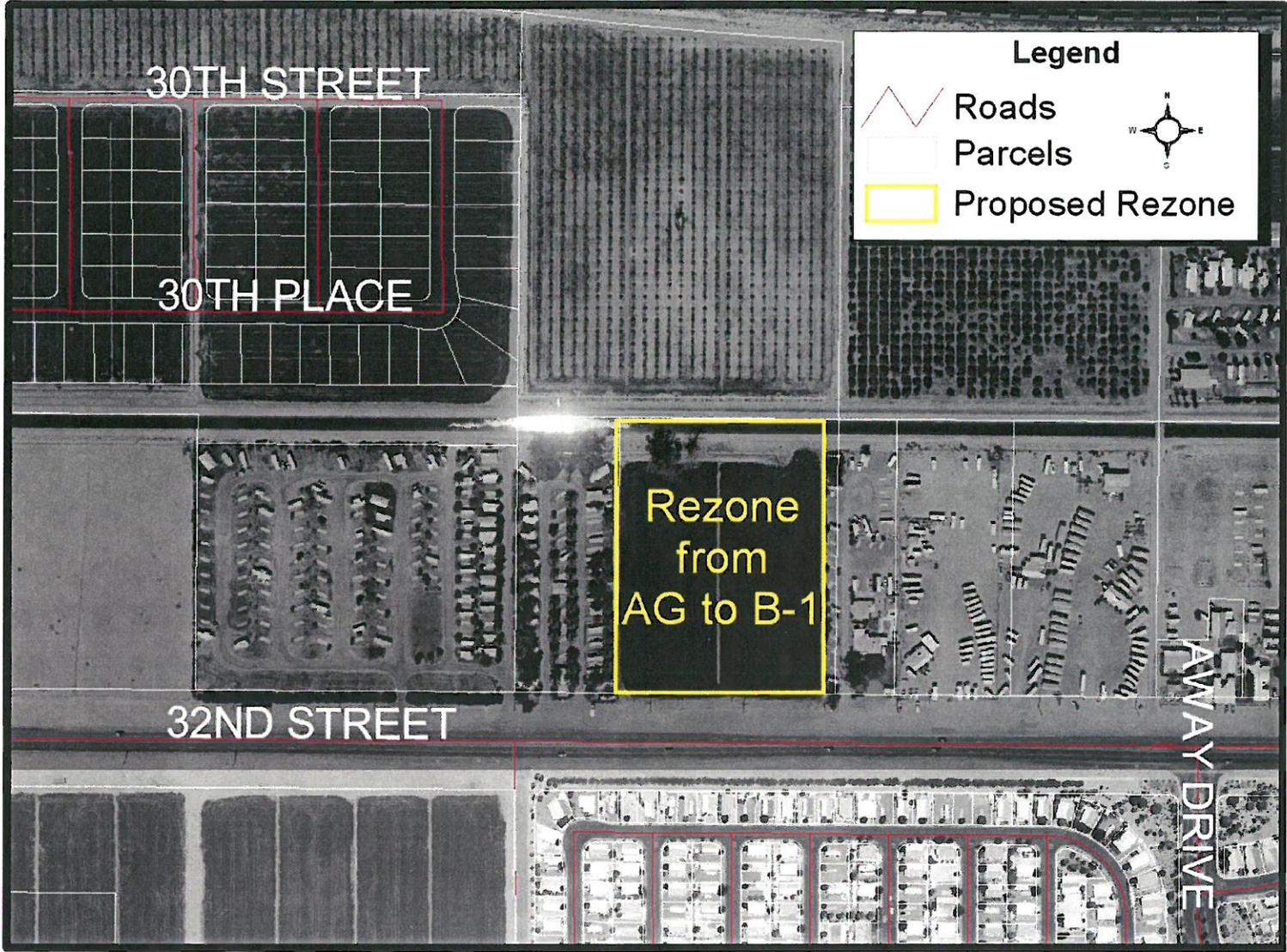
**ATTACHMENT B  
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

1. A one-foot (1') non-access easement shall be provided over the entire 32<sup>nd</sup> Street frontage with the exception of any access approved by the Department of Community Development.
2. A Traffic Impact Analysis (traffic study) shall be conducted in accordance with City of Yuma Construction Standard No. 2-100 and the latest edition of the ADOT Traffic Impact Analysis for the proposed development. All suggested improvements outlined by the Traffic Impact Analysis shall be constructed by the applicant.
3. A raised median covenant shall be recorded on the property that acknowledges that medians are anticipated to be constructed within 32<sup>nd</sup> Street adjacent to the property, which may limit left turning movements into and out of the site.
4. The applicant/developer shall make a contribution for the traffic signal at the intersection of Avenue 5 ½ E and 32<sup>nd</sup> Street in the amount of \$1,080, which is equivalent to \$200.00 per acre.
5. The south half of the 'B' Canal, approximately forty-six feet (46'), along the north property line shall be dedicated to the City of Yuma, by plat or by warranty deed, to facilitate the future development of the linear park.
6. One hundred foot (100') half width roadway easement for 32<sup>nd</sup> Street shall be converted into fee title right-of-way dedicated to the City of Yuma.

Each of the conditions listed above shall be completed within three (3) years of the effective date of the rezoning ordinance or as provided for in a development agreement. In the event the conditions are not completed within this time frame, the applicable rezoning shall be null and void.

ATTACHMENT C  
1998 AERIAL PHOTO



**ORDINANCE NO. O2003-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 154 OF THE YUMA CITY CODE, AS AMENDED, REZONING CERTAIN PROPERTY HEREINBEFORE LOCATED IN THE AGRICULTURE (AG) DISTRICT TO THE LIMITED COMMERCIAL (B-1) DISTRICT AND AMENDING THE ZONING MAP TO CONFORM THERETO**

WHEREAS, the City of Yuma Planning and Zoning Commission held a public hearing on January 13, 2003 in Zoning Case No: Z2002-017, in the manner prescribed by law, for the purpose of rezoning the parcel of property hereinafter described in the Limited Commercial (B-1) District as provided for in Chapter 154 of the City of Yuma Code; and,

WHEREAS, due and proper notice of such public hearing was given in the time, form, substance and manner as provided by law, including publication of such notice in the Yuma Sun on December 27, 2002; and,

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission regarding Case No: Z2002-017 and finds that the recommendation complies with and conforms to the goals and objectives of the Yuma General Plan, as amended.

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

SECTION 1. That the following described property, to wit:

“That part of the Southwest Quarter of the Southeast Quarter (SW ¼ SE ¼ ) of section 5, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona, more particularly described as follows:

Beginning at the Southwest corner of the Southwest Quarter (SE ¼) of Section 5; thence North 0° 25’ 30” West along the West line of said Southeast Quarter (SE ¼), a distance of 600 feet to the center line of B canal; thence South 89°35’30” East along the center line of said canal 660 feet; thence South 0°25’30” East a distance of 660 feet to the South line of the Southeast Quarter of said section 5; thence North 89°35’30” West along said South line of Section 5 to the point of beginning.

EXCEPT the West 207 feet thereof; and  
EXCEPT the East 26 feet thereof.”

Containing 6.469 acres, more or less.

be placed in the Limited Commercial (B-1) District as defined by Chapter 154 of the Yuma City Code, as amended; that said property upon this Ordinance becoming final, be subject to all rules, regulations and requirements of Chapter 154 of the Yuma City Code, as amended, pertaining to the Limited Commercial (B-1) District, and that the zoning map adopted under Chapter 154 of the Yuma City Code, as amended, be hereby ordered to be changed and amended so as to show that said property described in this Ordinance will be located within the District herein provided.

SECTION 2. That the following conditions must be met and/or completed in order for the zoning amendment to be final:

1. A one-foot (1') non-access easement shall be provided over the entire 32<sup>nd</sup> Street frontage with the exception of any access approved by the Department of Community Development.
2. A Traffic Impact Analysis (traffic study) shall be conducted in accordance with City of Yuma Construction Standard No. 2-100 and the latest edition of the ADOT Traffic Impact Analysis for the proposed development. All suggested improvements outlined by the Traffic Impact Analysis shall be constructed by the applicant.
3. A raised median covenant shall be recorded on the property that acknowledges that medians are anticipated to be constructed within 32<sup>nd</sup> Street adjacent to the property, which may limit left turning movements into and out of the site.
4. The applicant/developer shall make a contribution for the traffic signal at the intersection of Avenue 5 ½ E and 32<sup>nd</sup> Street in the amount of \$1,020, which is equivalent to \$200.00 per acre.
5. The south half of the 'B' Canal, approximately forty-six feet (46'), along the north property line shall be dedicated to the City of Yuma, by plat or by warranty deed, to facilitate the future development of the linear park.
6. One hundred foot (100') half width roadway easement for 32<sup>nd</sup> Street shall be converted into fee title right-of-way dedicated to the City of Yuma.

Each of the conditions listed above shall be completed within three (3) years of the effective date of the rezoning ordinance or as provided for in a development agreement. In the event the conditions are not completed within this time frame, the applicable rezoning shall be null and void.

Passed and adopted this 19th day of March, 2003.

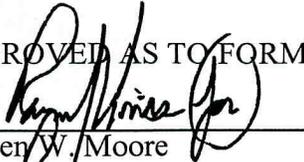
APPROVED:

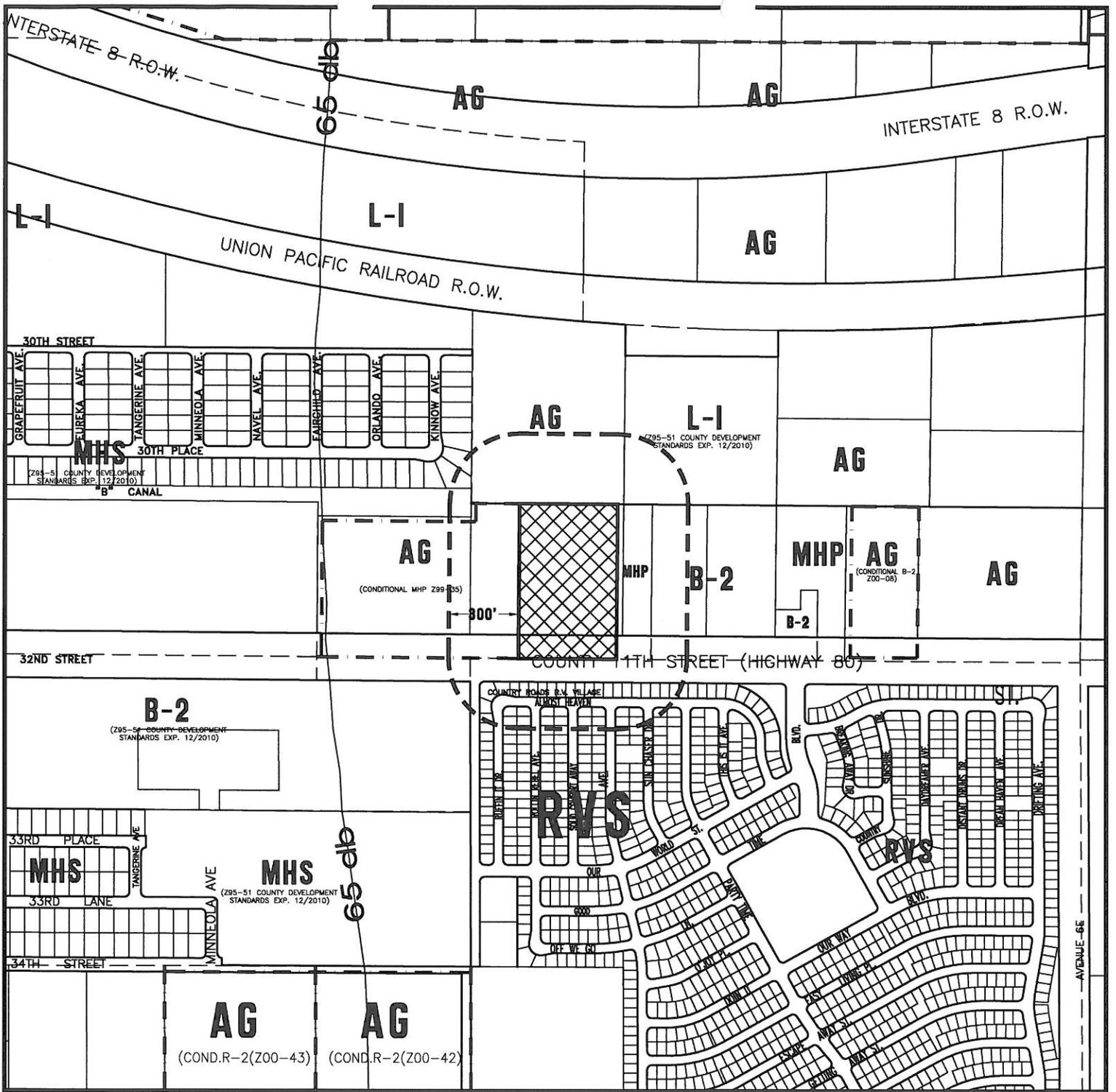
  
 Lawrence K. Nelson  
 Mayor

ATTESTED:

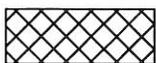
  
 Brigitta K. Stanz  
 City Clerk

APPROVED AS TO FORM:

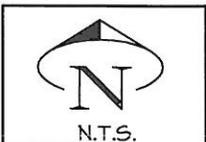
  
 Steven W. Moore  
 City Attorney



# LOCATION MAP



**LOCATION OF SUBJECT PROPERTY**



**Prepared by:** E.G.  
**Checked by:** *[Signature]*



**Date:** 12-06-02  
**Revised:**  
**Revised:**

**Case no.:**  
**Z2002-017**

**ORDINANCE NO. O2025-011**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING ORDINANCE O2003-12 TO REMOVE CONDITION 4, REVISE CONDITIONS 2 & 6 AND TO EXTEND THE TIME FOR COMPLIANCE WITH CONDITIONS FOR THE REZONING OF CERTAIN PROPERTY FROM THE AGRICULTURE (AG) DISTRICT TO THE LIMITED COMMERCIAL (B-1) DISTRICT AND AMENDING THE ZONING MAP TO CONFORM THERETO**

WHEREAS, the City Council adopted Ordinance O2003-12 on March 19, 2003 rezoning certain properties subject to conditions which have not been fully met; and,

WHEREAS, pursuant to Arizona Revised Statutes (A.R.S.) § 9-462.01 and Ordinance No. O2003-12, a statutory compliance hearing was held on April 02, 2025 and this amendment to Ordinance No. O2003-12 was introduced; and,

WHEREAS, the City seeks to resolve the outstanding conditions to bring the property into compliance with the rezoning to the Limited Commercial (B-1) District; and,

WHEREAS, Condition 2 is modified so as to be addressed during the actual development, Condition 6 is updated to the present day right-of-way policies, Condition 4 is no longer necessary or desirable, and the timeframe for completion needs to be extended, all in Ordinance No. O2003-12,

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

SECTION 1: Condition 4 in Section 2 of Ordinance No. O2003-12 is hereby deleted.

The revised Conditions 2 & 6 in Ordinance No. 2003-12 would be as follows:

2. A Traffic Impact Analysis (traffic study) ~~shall be conducted in accordance with City of Yuma Construction Standard No. 2-100 and the latest edition of the ADOT Traffic Impact Analysis for the proposed development;~~ **will be required at the time of development if the proposed development meets the thresholds/requirements of City Standard 2-040.** All suggested improvements outlined by the Traffic Impact Analysis shall be constructed by the applicant.

6. One hundred foot (100') half-width roadway easement for 32<sup>nd</sup> Street shall be converted into fee title right-of-way dedicated to the City of Yuma; **then implement a right-of-way exchange agreement, with the City of Yuma keeping the south 80 feet and abandoning the north 20 feet to the adjacent property while reserving an easement for any utilities in that 20 feet.**

The subsection following Condition 6 in Ordinance No. 2003-12 would be reworded as follows:

Each of the conditions listed above shall be completed within ~~three (3)~~ **twenty-seven (27)** years of the effective date of the rezoning ordinance or as provided for in a development agreement. In the event the conditions are not completed within this time frame, the applicable rezoning shall be null and void.

SECTION 3: Subject to this amendment, Ordinance No. O2003-12 shall remain in full force and effect.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney