

WASTEWATER SERVICE AGREEMENT

The City of Yuma, an Arizona municipal corporation ("City"), and the Winterhaven County Water District ("District") enter into this Wastewater Service Agreement ("Agreement"). The City and the District are sometimes referred to individually as "Party" and collectively as the "Parties."

RECITALS

Whereas, the District needs sewage collection and treatment services for its wastewater; and

Whereas, the District is in Imperial County, California, and

Whereas, the City is willing to sell and provide sewage collection and treatment services for the District.

Now, Therefore, the Parties mutually agree as follows:

TERMS

1. **Recitals.** The recitals above are incorporated into this Agreement by reference.
2. **Scope and Term.** The City shall sell and provide, and the District shall purchase and receive, sewage collection and treatment service (hereafter "Service"). This Agreement is effective upon execution and remains in force for ten (10) years unless extended or terminated as provided below.
3. **Service.** Service shall be provided at the City's Figueroa Avenue Water Pollution Control Facility ("Facility") located at 289 North Figueroa Street, Yuma, Arizona. The City will provide Service to the District for wastewater generated within the District's boundaries as set forth in Exhibit "A," attached and incorporated to this Agreement by this reference. All wastewater flows delivered to the City for Service shall pass through a flow meter, measuring the total gallons delivered in any billing cycle. The flow meter used shall have the accuracy and be calibrated at the frequency listed in the Industrial Discharge Permit issued to the District. The District shall give the City reasonable notice, so far as possible, addressing any proposed changes in volume or characteristics of the District's wastewater flows.

The City shall use reasonable diligence to provide regular and uninterrupted Service to the District. The City will not be liable for damages, breach of contract, or otherwise to the District for failure, suspension, diminution, or other variations of Service occasioned by or in consequence of any cause beyond the control of the City including, but not limited to, acts of God or of the public enemy, fires, flood, earthquakes or other catastrophes, strikes, failure of conveyance or treatment equipment or facilities provided that when such failures occur, and will aggregate more than forty eight (48) hours in any one (1) billing cycle, the District will not be liable for its portion of the operation and maintenance costs during the period of the outage.
4. **Available Capacity.** This Agreement entitles the District to Service of a maximum average daily flow of 55,000 gallons per day in any billing period, provided that peak flow must not

exceed 78,835 gallons in a single day. Additional capacity requires a new written agreement between the Parties.

5. Rates and Charges. The District shall compensate the City for (a) treatment and disposal costs, (b) for the Colorado River Levee Interceptor costs, and (c) collection system and Facility capital improvement costs as follows:

(a) Treatment and Disposal Costs: The District will be billed the Outside the City Commercial and Industrial rate in effect at the time of Service. At no time will this billing rate be less than the rate charged to commercial and industrial customers of the City.

(b) Colorado River Levee Costs: The District will pay the City \$5,000.00 per year for operation and maintenance of the Colorado River Levee Interceptor.

(c) Collection System and Facility Capital Improvement Costs: From time to time, capital improvements will be made to the Facility, and the collection system to the Facility. When these capital improvements occur, the District's share of the costs shall be the ratio of the average daily flow received from the District over the average daily flow treated at the Facility for the prior calendar year, times the total capital improvement cost. In 2024, the City received an average daily flow of 29,170 gallons per day from the District and the Facility had an average daily flow of 7.059 million gallons per day (mgd). Thus, the District's percentage of capital costs incurred in 2025 is 0.41 percent. This percentage will be adjusted annually, in January of each year.

Billing for capital improvement costs will be accompanied by a letter from the City certifying the costs are necessary for maintaining efficient operations of the Facility or of the collection system. The City shall provide a cost breakdown for all capital improvement charges billed to the District.

The City will endeavor to provide the District by May 31 of each year an estimate of the annual capital improvement costs for the following fiscal year, but the City's failure to provide this estimate to the District shall not relieve the District of its obligation to pay its share of any such costs.

6. Cash Bond. Within thirty (30) days after executing this Agreement, District shall deposit with City a cash or surety bond in the amount of \$10,000.00 ("Bond") in a form acceptable to the City. The City is not required to maintain the Bond in a segregated account, and the Bond will be used to assure the District's obligations under this Agreement. The Bond may be drawn upon by the City by presentation of written notice to the District as provided by this Agreement, signed by the City Administrator certifying that the District has failed to comply with this Agreement, stating the nature of noncompliance, and stating the amount being drawn. After notice to District that the City has drawn upon any amount of the Bond, District shall deposit a sum of money sufficient to restore such Bond to the original amount within thirty (30) days or within a longer timeframe agreeable in writing to City. The rights reserved to the City with

respect to the Bond are in addition to all other rights of the City, and no action proceeding against the Bond will affect any other right City may have.

7. Prompt Payments. The District will make all payments owed the City within (30) days of the date of billing. City may use the Bond for delinquent payments owed the City.

8. Conditions of Service. The District agrees to comply with all regulations, ordinances and policies adopted by the City related to the permissible chemical and physical properties of sewage and wastes delivered for Service at the Facility. Throughout the term of this Agreement, the District shall maintain an Industrial Discharge Permit issued by the City. The District shall not install any new commercial or industrial connections without written approval from the City. Each year, the District shall provide to the City a list of all non-residential discharges to the District's collection system.

9. Effluent Standards. The City shall provide the District, within sixty (60) days of the effective date of this Agreement, effluent characteristics (regulated pollutants and concentrations) that will be used to identify the existence of pollutants or concentrations of pollutants at the District operated meter that may disrupt the efficient operation of the Facility, or pass through the Facility in violation of the Facility's Arizona Pollutant Discharge Elimination System ("AZPDES") permit incorporated in the District's Industrial Discharge Permit. Such concentrations shall not exceed those of the local limits for the affected pollutants developed by the City pursuant to the City's codes and regulations, including City of Yuma Code § 191-51 and the EPA Pretreatment Limits contained in 40 C.F.R. Chapter I Subchapter N (the "Local Limits"). If the City revises its Local Limits, the City shall forward a copy of such revisions to the District within ten (10) days of enactment and the District's Industrial Discharge Permit shall be reopened for the purpose of incorporating the revised Local Limits. The District shall notify and ensure that the District's users comply the City's effluent standards and Local Limits.

10. Monitoring. Monitoring of the quality of sewage and wastewater in the Winterhaven Delivery System shall be conducted by the District in the manner, frequency, and at the location(s) prescribed by the District's Industrial Discharge Permit. If the City samples sewage and wastewater In the Winterhaven Delivery System or at any other point after the system but before the effluent enters the Facility, the City shall (upon request from the District) provide the District with a split-sample of all samples taken and shall provide the District with the results of any testing or analysis of the sample, along with supporting documentation.

11. Inspections. The District shall allow the City access to inspect the District's facilities and collect samples of effluent from the District's facilities to determine compliance with the City's effluent standards and the terms and conditions of the District's Industrial Discharge Permit. Upon request from the District, the City shall provide the District with a split-sample of any sample taken by the City and shall provide the District with the results of any testing or analysis of the sample. If the City determines after inspection that there is reasonable basis to believe that the Industrial Discharge Permit is being violated, the City shall have the enforcement authority

prescribed by 40 C.F.R. § 403.S(F)(S), the City's Enforcement Response Plan, and the laws of the State of Arizona.

The City may terminate Service to the District and refuse to accept effluent from the District if the City determines the District's wastewater flows violate the City's effluent standards and Local Limits.

12. Environmental Compliance. At least once each year, the District shall test for the pollutants listed in 40 C.F.R. Part 423, Appendix A (Priority Pollutants) and any successor regulations, as now or hereafter amended, and provide the test results for each pollutant to the City.

(a) The District represents to the City that the District's sewage and wastewater consists only of domestic and municipal sewage and wastewater and does not contain industrial sewage and wastewater that is subject to federal, state, or local pretreatment requirements.

(b) The District shall notify the City upon receiving an application or other notice from an industrial facility, including any tribal entity, that intends to connect to the District's collection system and discharge industrial wastewater. Before allowing such industrial facility to discharge into its system, the District shall consult with the City and the Environmental Protection Agency ("EPA") to develop appropriate pretreatment requirements applicable to such industrial facility. At a minimum, such requirements shall include all relevant federal pretreatment standards.

(c) Regardless of the pretreatment standards imposed by the District, no entity discharging industrial wastewater to the District's system for treatment by the City may discharge in violation of the City's sewage regulations and pretreatment standards, unless otherwise agreed to in writing by the City.

13. Dispute Resolution. The parties agree to make best efforts to resolve disputes that arise under this Agreement through good faith negotiations. If the dispute involves issues relating to compliance with local, state, or federal sewage and wastewater quality, pretreatment regulations, or AZPDES permit compliance, the Parties will request a representative of the Arizona Department of Environmental Quality ("ADEQ") and/or the EPA to participate in negotiations.

14. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. Any action to enforce any provision of this Agreement or to obtain any remedy with respect to this Agreement shall be brought exclusively in the Superior Court, Yuma County, Arizona (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks jurisdiction over such action). 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 commenced in accordance with the terms of this paragraph.

15. No Waiver. Neither Party shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other Party on one or more occasions to insist upon or seek compliance with any such terms or conditions.

16. Severability. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other partes of this Agreement shall be in full force and effect.

17. Conflict of Interest. This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511.

18. Indemnity. The District agrees to indemnify, defend and hold harmless the City, its agents, officers, employees and elected officials for, from and against any and all claims, liabilities, demands, damages, losses, costs and expenses (including reasonable attorney's fees court costs and the costs of appellate proceedings), caused in whole or in part by any negligent, reckless, or intentional acts, mistakes, errors, or omissions of the District, whether authorized by the District or not, including all claims or actions based upon or arising out of damage or injury to property or persons or death caused by or sustained in connection with this Agreement. This indemnification responsibility extends to the District, its employees, agents, volunteers, officials, or officers, contractors and subcontractors, directly or indirectly employed by the District. The amount and type of insurance coverage set forth below will not be construed to limit the extent or scope of this indemnity.

19. Insurance. The District shall, at its own cost expense, secure and maintain during the term of this Agreement commercial general liability insurance including bodily injury, property damage, contractual, personal injury, products/completed operations, and coverages for any and all environmental requirements under the law and this Agreement. Liability limits shall be no less than \$1,000,000, per occurrence/per location, \$2,000,000 combined single limit for the date(s) the Agreement is in effect and District's policy shall name and endorse the City as an additional insured and include an endorsed waiver of subrogation in favor of the City. The policy provided hereunder shall: 1) contain a provision whereby the insurance company agrees to give the City thirty (30) days written notice before the insurance is cancelled; 2) be written on an occurrence basis; 3) provide for primary coverage without right of contribution from any insurance of the City; and 4) be maintained with companies either rated no less than A- in the most recent edition of "Best's Insurance Guide" or otherwise reasonably acceptable to the City. To the fullest extent permitted by law, if Licensee maintains higher limits than the minimums shown above, City shall be entitled to coverage for the higher limits maintained. Failure to provide required coverage and failure to comply with the terms and conditions of this Agreement shall not waive the contractual obligations herein.

The commercial general liability policy must include Explosion, Collapse and Underground (X, C, U) and must not exclude:

1. Claims arising from pollution caused by environmental work
2. Asbestos related claims
3. Laboratory analysis

4. Treatment facility operations if it is required within the scope of work or services.

The District shall also carry Pollution Liability coverage with project-specific limits of \$1,000,000.00 per loss and \$2,000,000.00 annual aggregate for losses caused by pollution conditions that arise from the District's performance under this Agreement. The coverage must include:

1. Bodily injury, illness, death, mental anguish or shock;
2. Property damage, including but not limited to physical injury or destruction, loss of use, and cleanup costs; and
3. All defense costs, including charges and expenses for investigation and claims adjustment.

Prior to any Service provided by the City under this Agreement, the District shall provide the City with certificates of insurance and a copy of the endorsements as required by this Agreement. In the event any of the above insurance policies are written on a "claims made" basis, coverage must extend for two years past completion and acceptance of the work or services. Failure to provide the required coverage and failure to comply with the terms and conditions of this Agreement shall not waive the contractual obligations herein.

20. No Assignment, Partnership or Modification. Neither Party may transfer or assign its interest in this Agreement without the written consent of the other Party. Nothing in this Agreement creates a partnership or joint venture between the Parties, and neither Party is the principal or agent of the other. No modifications, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by both Parties.

21. Notices. All notices, demands, instructions, approvals, or other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly delivered upon personal delivery, or mailing by United States mail, postage prepaid, registered or certified, return receipt, addressed as follows:

To the District: Winterhaven County Water District
 494 Second Avenue; PO Box 787
 Winterhaven, CA 92283

To the City: City of Yuma
 270 West 13th Street
 Yuma, Arizona 85364
 Attn: Utilities Department Director

22. Default and Remedies. Unless warranted by an imminent and substantial endangerment to public health or the environment, each Party agrees to give a defaulting party thirty (30) days to cure the default before initiating legal action. If the defaulting party does not cure the default within 30 days of receiving notice of such default, the non-defaulting party may initiate legal action to cure, correct or remedy the default or to enforce any covenant or agreement herein.

The Parties hereby waive any right to seek consequential, punitive, multiple, exemplary or any damages other than actual damages.

23. Authority to Act; Counterparts. Each undersigned representative of the Parties certifies that he or she is authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such Party to this document.

This Agreement may be executed in one or more counterparts, and counterparts may be exchanged by electronic transmission (including by email), each of which will be deemed an original, but all of which together constitute one instrument.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, this Agreement is executed effective as of the ____ day of November, 2025.

Winterhaven County Water District

By: 
Name: Rosalba Martinez
Title: Board President

CITY OF YUMA, an Arizona municipal corporation

By:
Name: John D. Simonton
Title: City Administrator

Attest:

By:
Name: Lynda L. Bushong
Title: City Clerk

Approved as to form:

By:
Name: Richard W. Files
Title: City Attorney

Exhibit “A”

Description of Winterhaven County Water District

Winterhaven Water Service Area

