



City of YUMA

**CITY OF YUMA
REGULAR CITY COUNCIL MEETING AGENDA
COUNCIL CHAMBERS – YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
WEDNESDAY, SEPTEMBER 21, 2011
5:30 P.M.**

Notice is hereby given that Councilmember Johnson has requested to participate in the September 21, 2011 Regular City Council Meeting through electronic methods. Voting procedures will remain as required by the Yuma City Charter and other applicable laws.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

FINAL CALL for submission of Speaker Request Forms

PRESENTATIONS

I. CALL TO THE PUBLIC

Members of the public may address the City Council on matters that are not listed on the City Council agenda. The City Council cannot discuss or take legal action on any matter raised unless it is properly noticed for discussion and legal action. At the conclusion of the Call to the Public, individual members of the City Council may respond to criticism made by those who have addressed the City Council, may ask staff to review a matter or may ask that a matter be placed on a future agenda. All City Council meetings are recorded and videotaped.

II. 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 will be taken separately.

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

- 8. 1. Regular Worksession May 31, 2011
- 19. 2. Regular Worksession June 14, 2011
- 22. 3. Regular City Council Meeting June 15, 2011

B. Approval of Staff Recommendations:

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1. 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)

34. 2. Special Event Liquor License: Yuma Fine Arts Association

Approve a Special Event Liquor License application submitted by Carolyn J. Bennett, on behalf of the Yuma Fine Arts Association, for the Oktoberfest event. The event will be held at the Yuma Art Center, located at 254 S. Main Street, on Saturday, October 1, 2011, from 6:00 p.m. to 9:00 p.m. (SP11-28) (City Administration/City Clerk) (Lynda L. Bushong)

36. 3. Special Event Liquor License: St. Francis of Assisi Parish

Approve a Special Event Liquor License application submitted by Christopher Orndorff, on behalf of the St. Francis of Assisi Parish, for the St. Francis Festival Dance. The fundraiser will be held at the St. Francis Hall, located at 1825 S. 8th Avenue on Saturday, October 8, 2011, from 5:00 p.m. to 12:00 a.m. (SP11-29) (City Administration/City Clerk) (Lynda L. Bushong)

38. 4. Permanent Extension of Premises: Arizona Marketplace Eatery and Pub

Approve an application for a Permanent Extension of Premises/Patio Liquor License Permit submitted by Clyde C. Curry, agent for Arizona Marketplace Eatery and Pub, located at 3351 Avenue 4E, Yuma, Arizona, to allow for an additional point of sale area. (EP11-05) (City Administration/City Clerk) (Lynda L. Bushong)

41. 5. Liquor License: Asian Star

Approve an Interim Permit/New Restaurant, #12, Liquor License application submitted by Haumei Chen, agent for Asian Star LLC dba Asian Star, located at 276 W. 32nd Street, #1, Yuma, Arizona. (LL11-12) (City Administration/City Clerk) (Lynda Bushong)

43. 6. Declare Surplus: Firearms

Declare firearms from the Police Department consisting of evidence, unclaimed safekeeping and found firearms, as surplus. (Police Department - RFO#2012000069) (Jerry Geier)

49. 7. Request for Qualifications (RFQ): Emergency Environmental Services

Authorize staff to negotiate and execute a one-year contract with the option to renew for four additional one-year periods depending on the appropriation of funds and satisfactory performance, for Emergency Environmental Services with the following companies:

- | | |
|--|-----------------|
| 1. Nicklaus Engineering Incorporated (NEI) | Yuma, Arizona |
| 2. Kary Environmental Services Inc. (KES) | Mesa, Arizona |
| 3. Southwest Hazard Control (SHC) | Tucson, Arizona |

(Environmental Services - RFQ No. 2011000282) (Jack Dodd)

51. 8. Bid Award: Landscaping and Beautification (16th Street from Arizona Avenue to Yuma Palms Parkway)

Award to the sole responsive/responsible bidder for the Landscaping and Beautification Project on 16th Street from Arizona Avenue to Yuma Palms Parkway, at a total cost of \$249,048.86 to: JSA Company, Yuma, Arizona. (City Engineering - Bid #2011000449) (Paul Brooberg)

IV. 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 will be removed from the Ordinance Consent Agenda and the vote or action will be taken separately.

94. A. Ordinance O2011-33 Waterline Easement: Engler Avenue

Authorize the acquisition of easement right-of-way along Engler Avenue, south of 16th Street, for the extension, operation and maintenance of a waterline. (City Engineering/Administration) (Paul Brooberg)

SUGGESTED MOTION: To adopt the ORDINANCES CONSENT AGENDA as recommended:

M/_____ **S/**_____ **RV/**_____

V. INTRODUCTION OF ORDINANCES

The following ordinance(s) is presented to the City Council for introduction. No vote or action by the City Council is necessary. However, the City Council may, at its option, vote or take action where appropriate. Ordinances given introduction are generally presented to the City Council for adoption at the next Regular City Council meeting.

99. A. Ordinance O2011-34 Yuma City Code Amendment: Animal Control Regulations Chapter 130, Section 110

Amend the Yuma City Code, Chapter 130-110 to grant the City of Yuma Police Department all rights, duties, responsibilities and authorities to enforce animal control regulations. (Police/Administration) (Jerry Geier)

VI. PUBLIC HEARINGS & RELATED ACTIONS

There are no public hearings scheduled at this time.

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Discussion and possible action on the following items:

1. Appointments:
 - Community Tree Board: 1 appointment to expire on 12/31/2015.
 - Clean and Beautiful Commission: 3 appointments to expire on 12/31/2015.
 - Residential Advisory and Appeals Board: 1 appointment to expire on 12/31/2015.
 - Parks, Arts, and Recreation Commission: 4 Student Commissioner appointments to expire on 6/30/2012.

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 September 8, 2011 through September 21, 2011. 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.

VIII. WAIVER OF ATTORNEY-CLIENT PRIVILEGE REGARDING MEMORANDUM DATED MAY 11, 2010

IX. 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.

X. EXECUTIVE SESSION

An Executive Session may be held during this meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. Section 38-431.03 A(1), (3), (4), & (7). An agenda will be posted 24 hours in advance.

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, PO Box 13012, Yuma, Arizona 85366-3012; (928) 373-5125 or TTY (928) 373-5149.

MINUTES
REGULAR WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
May 31, 2011
5:00 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

Councilmembers Present: Stuart, Mendoza, McClendon, Brooks, Johnson and Mayor Krieger
Councilmembers Absent: Beeson
Staffmembers Present: City Administrator, Greg Wilkinson
Director of City Engineering, Paul Brooberg
Director of Parks & Recreation, Becky Chavez
Management Analyst, Brant Hanson
Various department heads or their representatives
City Attorney, Steve Moore
City Clerk, Lynda Bushong

I. REGULAR CITY COUNCIL MEETING AGENDA OF JUNE 1, 2011

Introduction of Ordinances Item C: Ordinance O2011-23 Exchange, Sale and Acquisition of Real Property

Mendoza requested confirmation that the exchange of property is of equal value resulting in a wash of the funds. **Brooberg** confirmed by explaining that an appraisal was performed on all four parcels, two parcels belonging to Dr. Foss and one property divided into two parcels which is owned by the City of Yuma, to verify that the properties were of equal value. Parcel A, located at the northeast corner of 6th Avenue and 16th Street, which is owned by Dr. Foss will be exchanged for Parcel B, located at the northwest corner of Avenue 8E and 32nd Street, which is owned by the City of Yuma. The City of Yuma will then purchase Parcel C from Dr. Foss' Pension Plan for \$195,000 and sell Parcel D to Dr. Foss for \$195,000 resulting in a wash of the funds.

Introduction of Ordinances Item B: Ordinance O2011-22 Amend Ordinance No. O97-49

Mendoza expressed concern about the possible variance of interest levels between Parks and Recreation members and Arts and Culture members. It will be important to ensure a balance is maintained between Parks & Recreation and Arts & Culture. **Chavez** informed Council that since both Commissions have reduced in size to three Parks & Recreation Commissioners and three Arts & Culture Commissioners this is the right time to combine. The department is conscious of keeping both interests equal in terms of who serves on the board.

II. CITY OF YUMA 2010-11 AND 2011-12 BUDGETS

Wilkinson: A copy of the Preliminary Budget for Fiscal Year 2011-2012 has been provided and was placed on today's agenda for discussion. The first phase in the adoption of the budget will be the adoption of the Preliminary Budget during tomorrow's Regular Council Meeting. City Council will then have an additional two weeks to review the budget.

Mayor Krieger asked **Wilkinson** how his approach to the budget is relative to cost savings and reducing costs to taxpayers. **Wilkinson** indicated that every decision made last fiscal year and this year was geared towards finding cost savings and reviewing procedures. Putting together the budget and the Capital Improvement Program (CIP) took longer to go through because we are trying to match costs against our resources and stay within the budget while providing the incentives promised to encourage economic growth. One of the primary concerns when balancing the budget was to avoid lay-offs and furloughs and maintain fiscal responsibility.

III. OUTSIDE AGENCY AGREEMENTS

Yuma Metropolitan Planning Organization (YMPO)/Intergovernmental Public Transit Authority (IPTA)/Greater Yuma Port Authority (GYPA)

Wilkinson briefed Council with the following:

- YMPO was established in 1982 by an Intergovernmental Agreement between the City and the County. Since that time, other jurisdictions have joined the organization.
 - YMPO was set up to:
 - Plan and coordinate.
 - Ensure road height and other elements match up when coordinating between cities.
 - Participate in the screening of grants to ensure they are properly written and meet requirements.
- The IPTA was established last year in an effort to move the transit function out of YMPO
 - The cities in Yuma County and the local college submitted a request to the County to form an independent transit agency due to YMPO's previous financial accountability issues and not being appropriately set up to handle transit.
 - IPTA will handle transit starting July 1, 2011.
 - The County Administrator and each of the City Administrators are member-directors of the IPTA Board to ensure the necessary resources are provided and it operates efficiently.
 - To date the IPTA has held 4 to 5 meetings and has hired a Transit Director who should begin employment at the end of June.

Mayor Krieger asked if the decrease in funding is due to the reductions from the Highway Users Revenue Fund (HURF). **Wilkinson** explained that the amount budgeted for YMPO reflects transit being taken out and not an actual decrease in funding. **Mayor Krieger** requested time to discuss the City's needs relative to the operations YMPO will continue to handle. Does the proposed funding of \$123,426 reflect the current economic climate and reduced activity within the City? **McClendon** inquired if YMPO's budget was discussed during the meeting that was schedule to take place after the Special Worksession on May 25th. **Mayor Krieger** indicated that the meeting held, was the YMPO Executive Board meeting where the Rail Corridor and Feasibility Study passed, despite his objection.

McClendon asked if the proposed funding of \$123,426 is comparative to the funding contributions from other entities. **Mayor Krieger** explained that since contributions to YMPO are based on a population ratio the City of Yuma is the largest contributor. He believes that now is the time for the City to ask questions to ensure funds are properly allocated. **Brooks** stated that since the beginning of her term on City Council she has not observed any positive changes to YMPO and is not convinced that the City's contribution should be \$123,426.

Johnson pointed out that the funding amount for YMPO is similar to the GYPA in that the amounts are not set by the City but rather by their respective executive board. The GYPA set the yearly funding of \$50,000 and when the City attempted to decrease the funding by \$5,000, the City of Yuma had to reimburse the GYPA in the subsequent year. YMPO was set up to pay a per capita based on population, and the City attempting to individually cut that unilaterally could result in having to reimburse those funds. Federal law requires an incorporated city with a population of 50,000 or more to have a metropolitan planning organization that includes surrounding areas that are likely to develop within 20 years. If YMPO does not complete the Regional Transportation Plan every three years the City and its surrounding areas will not be eligible to receive federal funding for any repaving projects including Arizona Department of Transportation (ADOT) projects. **Brooks** requested clarification of what the outcome would be if the City decided to decrease YMPO's funding and asked if the City would be responsible to repay the decreased amount. **Mayor Krieger** stated that the outcome would depend on the reduction but there would be no penalty associated. The difference is that the City is paying YMPO for a service and GYPA is paid upfront for a future investment return. Currently, the City has more voting power simply because of its population. YMPO was never set up to be a transit authority and the Board was not structured to run a bus system, yet they did for several years and these are the types of activity that derives YMPO from its core mission. The City has to have a YMPO to be eligible for federal funds but, the scope of work of a metropolitan planning organization will depend on the funding available.

Brooks: If funding is based on a percentage of the City's population, is this a mandatory amount that has to be paid? **Mayor Krieger** indicated that he believes the percentage of the City's obligation can be changed, but asked for further guidance from Councilmember Johnson.

Johnson stated that the GYPA is a private non-profit that has a \$3 million balloon loan that is due in about a year. The current industrial park needs a tremendous amount of sewer, water, and road facility work within the next 18 months in order to generate funds to pay for this loan otherwise, the City might have to make additional contributions towards the loan if it's not refinanced. YMPO is a governmental entity mandated by federal highway law that is required to do things beyond traffic counts including preparations of the Regional Transportation Improvement Program, the Regional Transportation Plan, and the Air Quality Conformity Analysis. **Mayor Krieger** added that the City does not have to fund the GYPA but if the City decides to discontinue funding the City will no longer have the opportunity to recover its investment.

Brooks asked if the City would continue to be eligible for federal funds if YMPO's funding was reduced. **Mayor Krieger** responded that YMPO would have to adjust and operate with a smaller budget. **Johnson** indicated that if the City decides to reduce funding one of the consequences would be for the City to lose its voting authority on the YMPO Board as it did when the City stopped funding transit. **Mayor Krieger** agreed and added that without the changes the City did last year regarding transit, the positive changes that have occurred to the bus system would not have taken place.

Wilkinson asked if YMPO had an adopted preliminary budget. **Mayor Krieger** indicated that to his knowledge a preliminary budget was available.

Johnson noted that the contract with YMPO includes additional traffic counts from their traffic counting program. YMPO's traffic counting program is designed for traffic planning and to generate data for the apportionment of the federal gasoline tax.

Greater Yuma Economic Development Corporation (GYEDC)

Brooks stated that she believes that City Council needs to revisit the proposed funding amount for GYEDC. The City should not take on the task of bringing new businesses to Yuma but GYEDC should also review their budget for possible reductions. The City and GYEDC should work closer together in bringing new businesses and jobs to Yuma. **Wilkinson** stated that he met with GYEDC and discussed a number of issues and is prepared to move forward in the direction City Council instructs.

Douglas Nicholls, Board of Directors Chairman, GYEDC, presented the following:

- In 2010 the per capita investment was \$2.66 from the City of Yuma at the investment level of \$247,500. The proposed budget reduces the per capita by over half with a new per capita investment of \$1.24 at the investment level of \$115,000.
- Corporations located in Arizona over the last year

| Recent Locates | # of Jobs | Community | Per Capita Investment |
|-----------------------|------------------|------------------|------------------------------|
| First Solar | 600 | City of Mesa | \$8.67 |
| Suntech Power* | 150 | City of Goodyear | \$14.98 |
| RIO GLASS* | 109 | City of Surprise | \$6.55 |
| Gestamp Solar Steel | 300 | City of Surprise | \$6.55 |
| DataSphere | 200 | City of Tempe | \$4.60 |
| Power One | 350 | City of Phoenix | \$6.57 |
| FAIST | 150 | City of Phoenix | \$6.57 |
| Intel | 1000 | City of Chandler | \$21.91 |
| Digital Realty | 136 | City of Chandler | \$21.91 |
| Pay Pal | 100 | City of Chandler | \$21.91 |

* Yuma competed

- During last year Johnson Controls and White Mountain had 45 job placements within City limits. From the City's perspective that is a ratio to the City investment dollars of \$5.50:\$1.00. By the end of June 2011 the roof manufacturing company White Mountain is scheduled to hire an additional 15 employees.

2010-2011 Grants Awarded

| Grant | Value of Grant | Recipient |
|---|--------------------|-------------|
| Economic Development Administration | \$3,000,000 | Airport |
| Arizona Commerce Authority-Rural Economic Development Grant | \$380,680 | Airport/JCI |
| Yuma Private Industry Council | \$8,660 | GYEDC |
| Total Value of Grants | \$3,389,340 | |
| Ratio of Grant Dollars to COY Investment Dollars | \$13.69:\$1.00 | |

- Since 2004 GYEDC has assisted in 814 direct job placements and through other support services the number increases to over 1,200 job placements in the Yuma community.
 - Although some businesses are outside city limits, jobs are held by many city residents.
 - GYEDC is a good investment because it produces job placements that spur economic development in the City of Yuma.
 - Currently GYEDC and City staff are looking at three large potential placements in Yuma; these placements would be extremely beneficial to the Yuma economy.
- GYEDC is requesting that City Council consider maintaining their current membership investment level.
 - As of June 2011, GYEDC will begin an investor drive and is also working to increase private investor contributions.

Johnson asked how GYEDC categorized their efforts for the job placements in companies that have been in Yuma for several years, such as FedEx. **Nicholls** responded that GYEDC assisted with the expansion plans and worked through the process with FedEx. Not all job placements are generated from new industries to Yuma but, also from expansion of existing industries. **Julie Engel**, President/CEO, GYEDC, stated that the FedEx project referenced is the one located at the Yuma Commerce Center which GYEDC was directly involved. **Johnson** asked if the expansion would have taken place as part of their company's expansion despite GYEDC efforts. **Engel** stated that Yuma competed against other communities for this new expansion.

Johnson asked for the contribution amount for the City of San Luis, City of Somerton, and Town of Wellton since 2009. **Nicholls** indicated that the contributions for the City of San Luis were \$65,000 in 2009; \$40,000 in 2010; and \$5,000 is proposed for 2011. Somerton is maintaining their current contribution level which is \$2,500 or \$5,000 and Wellton decrease their contribution to \$5,000. One of the struggles that GYEDC is facing as an organization is the reductions occurring in many areas.

Mendoza stated that City should consider the possibility of continuing the current funding level for GYEDC. Government entities need to follow additional processes and procedures as opposed to a private organization, so contracting with GYEDC might facilitate getting new businesses located in Yuma easier and quicker. The City and GYEDC must work together to accomplish these mutual goals. GYEDC might not be 100% responsible for acquiring all the job placements reported but their lobbying efforts have assisted the process. **McClendon** agrees with Councilmember Mendoza.

Johnson added that in his opinion the City should decide to either fund economic development properly or take it over completely. There is no need for both the City and GYEDC to handle economic development.

Mayor Krieger stated that if the City has the opportunity to have some level of in-house economic development position it could create an opportunity for the City to target businesses directly. Other cities that have an in-house economic development position, such as the Town of Payson which seem to be expanding at a more rapid pace. The City Administrator and GYEDC should meet and find common ground to make this equitable for both parties. **Nicholls** appreciates Mayor Krieger's perspective and agreed that most communities do have an in-house economic development element. GYEDC does not oppose this position but, the organization needs to continue to function at the same level in order to interface with this person. The proposed reduction would reduce GYEDC's capability significantly.

Stuart acknowledged the value of the services provided by GYEDC and the need to negotiate a suitable contract for both parties. The role of the in-house position can be used as a liaison between the City and GYEDC.

Wilkinson clarified that the \$247,500 reflects the amount provided to GYEDC, not the total amount spent on economic development. The City spends a substantially higher amount for economic development in areas such as incentives. In these tough economic times as other organizations cut back, the City is also dealing with budget difficulties and GYEDC cannot expect the City of Yuma to continue to make up for the reductions of other organizations. Furthermore, the intent of the internal position is not to duplicate or compete against GYEDC, but to further the City's relationships and to provide a liaison for GYEDC and to all businesses. **Wilkinson** commented on the great job Engel and **Nicholls** do with GYEDC. **Mayor Krieger** added that Engel's performance ratings are always very excellent.

Humane Society of Yuma (HSOY)

Mayor Krieger stated that through neighborhood meetings the community has expressed that one of the biggest animal control concerns are feral cats. Many towns/cities are facing this issue and it cannot be fixed quickly. It will take time for the City to refine the process of how animal control is addressed. It is important to begin isolating areas of concern in the same way the Police Department addresses high priority issues, by focusing on one area at a time.

Wilkinson informed City Council that staff inquired about the animal control cost of other cities and counties and the results range from \$20,000 to \$350,000. Some unsolicited proposals for animal control were received for the City that ranged in the \$300,000s. **Mayor Krieger:** Will the City be soliciting proposals? **Wilkinson** responded that because of the short timeframe the City will probably be tasked with handling animal control for the time being. Staff has identified some property that can be used for a facility. One of the properties identified is land the City might need to purchase to accommodate street work and the other is distressed property that is inexpensive at this time. The critical issues will be to take care of dog bites and feral cats.

Brooks asked if staff is proposing to not fund the HSOY. **Wilkinson** explained that HSOY has indicated that they will no longer be able to handle cats and live capture traps. These areas have not been part of the City's contract but have been handled in the past by HSOY. The HSOY is requesting an increase and since the City is not in a position to offer an increase, staff began to research the cost associated with handling our own animal control.

Brooks: Can you explain what will happen if the City does not fund HSOY? **Wilkinson** stated that the primary mission for HSOY is to take care of animal adoptions which they will continue to handle; these services are paid through donations to the organization. The HSOY has raised the concern that the City does not pay enough to cover the cost of the services provided so if the City removes these services it should leave the HSOY in a better position to carry out their mission. They will continue to handle some work for the County. If approved by City Council then the City will only handle the animal control aspect. **Mayor Krieger** added that the HSOY is a 501(c)3 organization with a mission for the humane treatment of animals. By contracting with HSOY to do animal control they have had to do things outside of their mission such as euthanizing animals. Not having effective animal control is a serious problem when a large amount of money has been spent for it over the years.

Brooks expressed concern about HSOY raising prices to the community. **Mayor Krieger** stated that is a decision HSOY will have to make.

Johnson stated that on numerous occasions Shawn Smith, Executive Director, HSOY has stated that the contract with the City does not cover the cost for services that they provide and that their charitable contributions are used to subsidize these services. Did the HSOY decide that they will not be involved in the animal control of cats? **Wilkinson** indicated that during a meeting with Smith he was informed that the HSOY will no longer be handling cats and although animal control of cats was not part of the current contract the handling of live traps has been. **Johnson** stated that under these circumstances the City would have to make a decision of whether to have a separate animal control system for dogs and cats or decide to run a single operation for both dogs and cats. **Wilkinson** added that if the City decides to contract with HSOY a different entity would have to handle cats and HSOY has requested an increase in funding to handle dogs.

McClendon asked what services are included in the proposals received. **Wilkinson** responded that the proposals include the services normally performed such as kennel, euthanizing, adoption, officers, and vehicles.

McClendon inquired about the funds collected from animal licensing going to the County. If the City takes over licensing would obtaining the necessary software be an extra expense? Are the chips for micro-chipped pets universal? **Wilkinson** explained that the City will not incur additional costs for animal licensing. The organization that would handle licensing takes their service fee out of the licensing fee so it would pay for itself. This database will have the ability to access information for all micro-chipped pets. The plan is to issue one tag and avoid replacing it until there is a need due to damage or needed repairs. **Hanson** stated that the City is looking to obtain a more durable tag, such as stainless, with a minimal cent cost difference. **Wilkinson** noted that the recently adopted animal control ordinance indicates residents have the option to micro-chip or license their pets and both methods will be tracked.

Mayor Krieger asked if the City will be able to download or upload the current licensing data into the new system. **Hanson:** Yes.

McClendon stated that it is difficult to understand how a new organization can come to Yuma and provide the same service that has been provided by HSOY for many years, in addition to the new provisions provided in the animal control ordinance, at a lower cost. **McClendon** expressed hesitation about moving forward so quickly with only cost estimates; it's possible the final cost will be substantially higher. Staff should attempt to renegotiate a contract with HSOY, otherwise the City and

city residents will be the ones affected during the implementation period. **Mayor Krieger** indicated that the scope of services the City will provide relative to the services currently provided by the HSOY will be completely different. The City's cost for kenneling will be lower because the City will only focus on animal control and additional administrative cost will not be incurred.

McClendon stated that the City does not have an animal control problem with dogs because the HSOY currently handles it. The City will notice a nuisance if these issues are left unattended for a couple of months due to a lapse in time while setting up animal control within the City. **Mayor Krieger** responded that to some extent this might be true but, the City will continue to respond to the dog bites and things of this nature. **Hanson** added that the Animal Control Recommendation Committee comprised of residents, a veterinarian, and city employees has been meeting and looking at different options available. There are a lot of good ideas and some contingency plans are being developed.

Brooks asked if the City will only be handling animal control for feral cats and dog bites. **Hanson** replied that the City will handle the whole operation of animal control and animal sheltering. **Brooks** asked if the City would compete against HSOY. **Hanson** stated that the difference will be that the City will not have an adoption program which is generally a huge cost. The HSOY cost of \$42 per day for kenneling includes adoption fees and administrative fees but, the \$18 cost per day of kenneling is strictly animal control cost. If the City decides not to provide its own shelter, the fee of \$42 a day for kenneling will apply to the City. The hiring of a City Enforcement Agent or utilizing someone in the Police Department to respond to cats, the feeding band, citations, or any other issues that arise is being considered. The City will continue to work with HSOY to negotiate the pending issues.

Brooks: What is the City going to do with the animals if the City will not do adoptions? **Hanson** indicated that euthanizing will be an option but staff has been working with organizations to possibly take in some animals. The City would like to give the option to take in some of the adoptable animals to HSOY; having two adoption agencies in the City is not necessary.

Wilkinson stated that the changes in licensing will be beneficial to the City since the City currently does not receive any revenue from the fees charged. This new revenue will help offset the new animal control cost. The City will try and place animals, however, euthanizing animals is not new to Yuma; the HSOY currently euthanizes animals that are not adopted.

Mendoza asked if the City will handle all animal control calls or only dogs and cats. **Hanson** informed City Council that Lieutenant Brian Scanlan is working on a proposal of how to implement animal control within the City. The City's primary focus is on animal control of cats and dogs.

Mendoza asked if the City will conduct a request for proposals to have a private company handle animal control. **Hanson** replied that at this time the City is only assessing what the cost for animal control is in other communities and have found that the cost is relatively lower when you focus strictly on animal control. It's anticipated that it will be trial and error during the first year but, by the end of the year the City should have an efficient program. **Mayor Krieger** added that the City would benefit more by contracting with a private organization because it would generate revenue through paid taxes.

IV. PROPOSED YUMA CITY CHARTER AMENDMENTS

Mayor Krieger outlined the proposed Charter amendments:

1. Article IV, Sec. 4 Time of holding primary and general elections.

There shall be a primary and general election held in the City of Yuma in every odd numbered year. The primary and general elections shall be held in ~~September and November, respectively, according to~~ *accordance with* state law.

Mayor Krieger expressed his support of the proposed change because it provides clarification of when elections shall be held.

2. Article VI, Sec. 3 Appointive officers.

(c) *City Attorney*. From on and after January 1, 1971, there shall be a city attorney who shall be appointed and his compensation fixed by the city administrator with the approval of the City Council. The city attorney shall serve as the chief legal advisor to the City Council, the city administrator, and all city departments, offices, and agencies. He shall represent the City in all legal proceedings, and shall perform any other duties prescribed by this charter, law, or ordinance. The City Council shall have ~~control~~ *final decision authority* of all litigation of the city, and may *delegate to the city administrator day to day guidance to the city attorney and hiring of other attorneys as required* for such additional legal services and all proper service or work done on behalf of the city in connection with its legal matters. The city attorney shall serve at the pleasure of the city administrator.

City Council had no comments.

3. Article XII, Sec. 1 Competitive bidding.

(d) *Further regulations*. Further regulations concerning purchasing and the awarding of contracts shall be established by city ordinance. *Policies and procedures of accepting of bids be reviewed annually and approved by City Council in a public forum.*

Mayor Krieger indicated he disagrees with the change because it suggests Council get involved in duties that fall directly under the City Administrator. **Stuart** reminded Council that the word “shall” has not been added to the proposed language change.

Mayor Krieger agreed with Councilmember Stuart and continued with the last proposed Charter amendment change:

4. Article VI, Sec. 14 Compensation.

(a) ~~From and after January 1, 1998, the Mayor shall receive compensation of \$12,000 a year and each Councilmember shall receive compensation of \$3,600 a year. From January 1, 2014, the Office of Mayor shall receive compensation based upon 20% of the Supervisor Salary for Yuma County as stated in Arizona Revised Statutes, Title 11, Chapter 3, Article 1, §11-419. The compensation for the Office of Mayor shall increase each subsequent year by 10% of the Supervisor Salary until the compensation for the Office of Mayor is equal to the Supervisor Salary for Yuma County.~~

From January 1, 2014, each Office of Councilmember shall receive compensation based upon 10% of the Supervisor Salary for Yuma County as stated in Arizona Revised Statutes, Title 11, Chapter 3, Article 1, §11-419. The compensation for each Office of Councilmember shall

increase each subsequent year by 5% of the Supervisor Salary until the compensation for each Office of Councilmember is equal to 50% of the Supervisor Salary for Yuma County.

The compensation of the Office of Mayor and each Office of Councilmember shall adjust to the relative percentage of the current Supervisor Salary (ARS Title 11, Chapter 3, Article 1, §11-419) on January 1 of each year.

Mayor Krieger stated that he is not in favor of this proposed change because it sets up a perception that the public will not have input during the years of implementation and it appears too convoluted and not worded for voters to easily understand. Mayor Krieger outlined the current compensation rates for Mayor and Councilmember for other cities in the State.

▪ Mayor and Councilmember Compensation

| City | Mayor | Councilmember |
|------------|----------|---------------|
| Chandler | \$36,000 | \$20,000 |
| Gilbert | \$37,080 | \$20,600 |
| Tempe | \$42,700 | \$26,809 |
| Mesa | \$38,006 | \$19,204 |
| Glendale | \$48,000 | \$34,000 |
| Scottsdale | \$36,000 | \$18,000 |
| Phoenix | \$88,000 | \$61,600 |
| Peoria | \$28,836 | \$19,224 |

The City of Yuma is the third largest metropolitan area in the State and currently the Mayor's compensation is \$12,000 and compensation for a Councilmember is \$3,600. After 27 years it is appropriate that this issue goes to the voters to give them the opportunity to participate in determining the compensation for Mayor and Councilmembers. Mayor Krieger displayed his appointment calendar for the months of March, April, and May of 2011 and outlined different events he attended to illustrate the amount of time spent conducting city business. City residents want their elected officials, such as the Mayor and Councilmembers, to participate in events and it is important for the public to understand the amount of time spent attending these events. Many people working in the private sector do not have as many benefits as City employees. All city employees for the last 27 years have received some type of cost of living increase. My proposal is that the Mayor's salary be set at \$24,000 annually which is the same level as the legislature who are only required to serve for 100 days per year, and the Councilmember's salary be set at \$6,000 annually. **Brooks** agreed that the language of the proposed changed is difficult to understand. **Mayor Krieger** asked if something would prevent City Council from making the effective date of this change in January or if approved 30 days after the voters vote. **Moore** informed City Council that as it relates to the Mayor's position, the change would have to become effective at the beginning of the term of office. However, for the Councilmembers, because there are incumbents, both those currently in office and those being elected could receive the pay adjustment starting January 1, 2012. **Mayor Krieger** stated that the Mayor would have to wait until the year 2014. **Moore** noted that the Mayor's position cannot receive an increase during that individual's term of office. **Brooks** stated that due to the current economic climate the change should not go into effect until 2014.

Johnson stated that the proposed change is convoluted and hard for the public to understand. This country has gone through a severe degrade recession for four years, city employees have seen their

paycheck net amount decrease virtually every year because of the increase in the retirement and health services. In 1992 the Mayor's salary was doubled from \$6,000 to \$12,000 and it is now being proposed to double again to \$24,000. The Councilmember's salary was adjusted in 1984 to the current \$3,600 a year and is now being proposed to be raised to \$6,000 a year which would match the salary of Councilmembers in Somerton and San Luis. The position of Mayor and Councilmember is a public service position and the little compensation received is basically to partially offset the out of pocket expenses. It is a mistake to request an increase in compensation to the voters in the middle of a recession when property values are continuing to decrease and are projected to continue in this pattern until 2015 or 2016 and City employees' net salaries continue to go down. Why make a decision now for a change that will not go into effect until 2014? **Mayor Krieger** asked what difference will it make to wait to propose the change until the 2013 General Election if this recession is expected to last until 2016. **Johnson** replied that it makes more sense to present the change in close proximity to when it takes effect.

Mayor Krieger stated that it is more difficult for a person without a retirement pension to serve as Mayor or Councilmember, because they have split their time between work and their elected official duties. The voters should have the opportunity to decide and send the message of what the Mayor and Councilmembers should receive as compensation for the work they do. The voters must also understand the level of service the City will get for their investment. The voters will ultimately decide whether to approve an increase in compensation; Council is only electing to place it on the ballot. **Johnson** indicated that raising compensation from \$300 a month to \$500 a month will not make much of a difference to subsidize the cost for elected officials without a retirement pension. **Mayor Krieger** replied that is one of the reasons the proposed change is for the increase to take place in incremental amounts. **Mendoza** stated that the increase might not make a difference for everyone but to others it will assist with the cost of mileage, missed worked hours, or lunch when traveling to attend meetings.

Stuart stated that some of the retired Councilmembers on pensions do contribute immense amount of time and work in this community and for this community.

Johnson suggested changing the proposed increase for Councilmembers to \$5,999 per year to remain as the lowest paid City Council in Yuma.

V. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION – NO DISCUSSION

VI. ADJOURNMENT/EXECUTIVE SESSION

The meeting adjourned at 7:23 p.m. No Executive Session was held.

Lynda L. Bushong, City Clerk

APPROVED:

Alan L. Krieger, Mayor

MINUTES
REGULAR WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
June 14, 2011
5:00 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

Councilmembers Present: Stuart, Mendoza, Beeson, McClendon, Brooks, Johnson and Mayor Krieger
Councilmembers Absent: none
Staffmembers Present: City Administrator, Greg Wilkinson
Director of Financial Services, Pat Wicks
Various department heads or their representatives
City Clerk, Lynda Bushong

I. REGULAR CITY COUNCIL MEETING AGENDA OF JUNE 15, 2011

Motion Consent Agenda Item B9: Outside Agency Agreement: Greater Yuma Economic Development Corporation

Brooks asked if the new proposed amount of \$200,000 will be sufficient to support the services Greater Yuma Economic Development Corporation (GYEDC) provides. **Julie Engel**, President/CEO, GYEDC, replied that the proposed funding will not be sufficient and it will force GYEDC to use its reserves. **Brooks:** Is this going to create lay-offs within GYEDC? **Engel:** Yes.

Mayor Krieger asked if the reductions GYEDC received from other municipalities will have the same effect. **Engel** indicated that only one other entity reduced their funding contribution and GYEDC was able to redirect funds from the foreign trade zone to makeup the short fall. **Johnson** noted that San Luis' contribution decreased from \$65,000 in 2009 to \$40,000 in 2010 and \$5,000 in 2011. **Engel** confirmed that the decrease for San Luis is \$35,000.

Engel clarified that the funding from the City of Yuma to GYEDC in 2010 was \$225,000 from the General Fund and \$27,500 from the Enterprise Zone for a total of \$247,500. **Wilkinson** confirmed the funding amount.

II. CITY OF YUMA 2010-11 AND 2011-12 BUDGETS

Wilkinson stated that although the overall budget total has not change; some minor changes within the budget have been outlined for Council's review.

Mayor Krieger thanked Wicks for his work on the budget.

Wicks apologized to Council for the late arrival of the budget. It was a challenge to get the budget prepared for Council and public review, primarily because of the work being conducted with the new

finance system. The overall budget total did not change from the adopted Preliminary Budget as is required by law. Although minor changes were made within the budget, the total remained the same as a result of a change to our grant contingency budget. Wicks outlined the following changes:

- The funding to GYEDC was increased by \$76,500 for a total of \$200,000.
 - An account adjustment to the rebates account to make a difference between rebates that were intended as economic development payments for companies coming in wanting development agreements.
 - The water fund pays 10% of the GYEDC contract which is why GYEDC appears on two line items.
- The Yuma Metropolitan Planning Organization budget was decreased by \$45,583 as a result of an over-funded budget.
 - All necessary accounts were adjusted to reflect this change and the difference was moved to the general government cost center as a contingency.
- An employee's salary was transferred the correct funding source.
- The total amount added to the Preliminary Budget of \$120,825 was reduced from the grant contingency budget.
- The Arroyo Dunes Golf Course Fund was increased by \$11,975 and the Desert Hills Golf Course Fund was increased by \$23,850 to add items that were previously identified by Wilkinson but not included in the Preliminary Budget.

Johnson asked if these changes identify where the funds were transferred in order to accommodate the increase to GYEDC. **Wicks** replied that the fund changes related to GYEDC reflect the adjustment.

Johnson questioned if GYEDC is prepared to accept the \$200,000 contract that is being proposed for approval during the June 15th Regular Council Meeting. **Engel** stated that the contract was received but there are some items that need to be discussed with Wilkinson. Some of the changes to the contract such as the liability insurance change from \$1 million to \$2 million will cause an impact to the GYEDC budget. Engel noted that GYEDC has support from the community to have the previous funding amount of \$247,500 restored. At this time, GYEDC is technically not ready to accept the proposed contract pending review of the cost impact from the changes to the contract. **Wilkinson** indicated that the insurance change will be reviewed.

Wicks stated that the Preliminary Budget FY 2011-2012 is available on the City's website for public review.

III. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION – NO DISCUSSION

IV. ADJOURNMENT/EXECUTIVE SESSION

Motion (Mendoza/McClendon): To adjourn the meeting to Executive Session. Voice vote: **adopted** 7-0. The meeting adjourned at 5:18 p.m.

Lynda L. Bushong, City Clerk

APPROVED:

Alan L. Krieger, Mayor

DRAFT

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
JUNE 15, 2011
5:30 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

INVOCATION/PLEDGE

Vince Harmon, Pastor of Christ Lutheran Church, gave the invocation. **Councilmember Beeson** led the City Council in the pledge of allegiance.

ROLL CALL

Councilmembers Present: Stuart, Mendoza, Beeson, McClendon, Brooks, Johnson and Mayor Krieger
Councilmembers Absent: none
Staffmembers Present: City Administrator, Gregory K. Wilkinson
Finance Director, Donald (Pat) Wicks
Director of City Engineering, Paul E. Brooberg
Various Department Heads or their representative
City Attorney, Steven W. Moore
City Clerk, Lynda L. Bushong

FINAL CALL

Mayor Krieger made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS

- **Amanda Aguirre** presented a \$2,000 Sponsorship Award to City of Yuma Fire Department.
- **Wilkinson** read an email received by the Mayor's office, regarding an accident that occurred over Memorial Day weekend, which expressed appreciation for assistance received from the Yuma Fire Department.

I. CALL TO THE PUBLIC

Shereen Khan-Guinn, 560 S. Palo Verde, reviewed her statements from the previous City Council meeting, stating that the information the City has posted on the internet has been altered to make her appear guilty of a crime. She stated that she has never committed a crime, nor has she ever been investigated of a crime. A complaint was made to the Yuma Police Department (YPD) over 20 years ago regarding corruption in local law enforcement, in which an investigation was requested but never completed. Many requests she has filed to see documents and/or reports, have received the response "no such record". When she spoke at the July 21, 2010 regular City Council meeting, she stated she was chastised for stating the City Attorney was not telling the truth and the Call to the Public was not for personal attacks; however, she feels it is the proper venue to express grievances, which she has. She stated that Wilkinson said YPD conducted an initial investigation and a follow up investigation, along with the Yuma County Sherriff's Office and Attorney General's Office, all of which resulted in the same finding, but that is not true. She stated that she

would be filing a request for those documents indicating the findings of the investigation, as she does not have them.

Wilkinson stated the Police Department does not maintain Sherriff's Office documents; if those documents are desired, the Guinn's must contact the Sherriff's Office.

Craig Williams, Yuma International Airport – 2191 E. 32nd Street, requested the City reconsider it's funding for the Greater Yuma Economic Development Corporation (GYEDC). Reducing funding would put the economic development efforts of GYEDC in jeopardy. GYEDC is the glue that holds together the team, which includes the Marine Corps Air Station – Yuma, Yuma Proving Grounds, the City of Yuma, Yuma County, and the Airport Authority, who work together to market Yuma. Economic development projects take years to bring about but they eventually bring jobs into the community. It is important to keep GYEDC in the mix; the team is a marketing machine and GYEDC is a critical part of economic development. He urged the City Council to maintain, or increase, GYEDC's funding.

Tom Pancrazi, Pancrazi Real Estate – 350 W. 16th Street #332, stated that he works with GYEDC through first phase clients in real estate who are considering the Yuma marketplace. Partnering with GYEDC has helped get this accomplished. Companies prefer to look at what Yuma has to offer, sometimes without anyone knowing; extracting information on real estate, employment, utilities, and expected working relationships with County or City government agencies. Without funding, the team could be disbanded. This may have a tremendous impact on the ability to attract businesses to Yuma. With the current market conditions, even commercial listings are hard to move. It takes 50-100 prospects to make one or two deals, so the team is essential in ensuring Yuma doesn't miss any leads. Four or five years ago there were an abundance of projects; however, they have declined drastically. There seems to be some turn around occurring now and GYEDC must increase their marketing efforts and spending to attract businesses to Yuma. He encouraged the City Council to continue supporting GYEDC through current funding levels, as GYEDC is a valuable asset to the community.

Patrick Walz, Yuma Regional Medical Center – 2400 S. Avenue A, thanked Wilkinson and staff in Community Development, who worked hard in assisting with getting permits and helping to meet the deadlines on a project that needed to be completed within a year. In regards to GYEDC, the State of Arizona is in a budget crisis, and cities have felt the cuts and reduction in revenue. The hospital strongly supports GYEDC because they bring new businesses to Yuma that create jobs which help alleviate the budget cuts, and benefit both the City and County. It is important for the communities to work with GYEDC to continue to bring in new businesses. He urged the City Council to consider what GYEDC does for the community when finalizing their budget.

Clayton Hasty, 1727 S. 42nd Avenue, stated that as a plant manager for Shaw Industries, he has to continually look at ways to reinvent the business, whether it is creating new industries or new looks on old products. As a GYEDC Board Member, he has learned over the last few months that business needs to be conducted differently to survive in the current economic times. In order for GYEDC to continue to work with the City and move forward, there needs to be a plan in place to facilitate change. He urged the City Council to consider funding GYEDC at its current level, or increasing funding, because it will take increased efforts to be successful.

Nate Schug, President, Westmoor Electric, 2202 E. 27th Way, mentioned two articles he read in the paper; one regarding City funding for GYEDC and the other stated \$150 million in contracts were awarded for the

F35 project at Marine Corps Air Station – Yuma, in which a good portion of the money will be paid in wages and net the City \$1.65 million. GYEDC was the driving force behind meetings to get the F-35 in Yuma, but it was also a collaborative effort with the City, MCAS, and GYEDC. In the last two years, over 50 people have been laid off at Westmoor Electric and the construction industry altogether has laid off thousands of employees in Yuma. It is thousands of people who don't know how they are going to pay their rent, clothe their children, or buy groceries next week. The F35 project will bring the community hope, jobs, and money. He urged the City Council to not cut funding to GYEDC, but rather increase their funding and give them a chance to increase their efforts in the City. As the Mayor stated, cities and towns should be made of partners – there isn't a better partner than GYEDC.

Julie Engel, President/CEO GYEDC - 899 E. Plaza Circle, stated that GYEDC is sincere in their efforts and does everything it can to improve the economy. Today's headlines were a welcome treat. GYEDC has been working with the corporation who won the bid for over a year, and arranging meetings with local subcontractors. With the thousands of people laid off in the construction industry, GYEDC is hopeful that the project will put a lot of people back to work. She urged the City Council to not cut the GYEDC funding, and allow them to continue pushing forward.

II. MOTION CONSENT AGENDA

Stuart requested that Item B9, Outside Agency Agreement: GYEDC, be removed for separate consideration.

Motion (Beeson/Brooks): To approve the Motion Consent Agenda as recommended, with the exception of Item B9. Voice vote: **approved** 7-0.

A. Approval of minutes of the following City Council meetings:

| | |
|-------------------------|----------------|
| Regular Worksession | April 19, 2011 |
| Regular Council Meeting | April 20, 2011 |
| Regular Council Meeting | May 4, 2011 |

B. Approval of Staff Recommendations:

1. 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). (Attny)
2. Authorize staff to execute a one-year contract for Fire Sprinkler System Maintenance & Repairs, with the option to renew for four additional one-year periods, depending on the appropriation of funds and satisfactory performance, to be used by all Departments of the City of Yuma. The following contractor would provide the service in accordance with the manufacturer's guidelines and National Fire Protection Association Standards, at an estimated annual cost of \$40,000.00, to American Fire Equipment Sales & Service Corporation, Yuma, Arizona. (Bid #2011000332) (Citywide)

3. Authorize insurance coverage for Property, Public Liability (including Employee Benefits, Public Officials, Employment Practices, Liquor, Law Enforcement, and Auto), Excess Liability, Crime/Dishonesty, Underground Storage Tanks, Excess Workers Compensation, Cyber Liability, and Auto Physical Damage coverage for Fiscal Year 2011-2012 in the total amount of \$539,708. (Risk Mngmnt)
4. Approve the time extension of the final plat for the Villa Serena Subdivision. The property is located at the northwest corner of Avenue 6E and 48th Street. The applicant is Dahl, Robins & Associates, on behalf of Jakolin, LLC. (S2008-008-01TE) (DCD/Planning)
5. Approve an Infrastructure and Services Report for Annexation Area No. A2011-02, identified as the Premier Storage Annexation, located at the southeast corner of Avenue 3¾E and 32nd Street. (DCD/Planning)
6. Authorize the execution of an agreement between Crossroads Mission and the City of Yuma providing for Fiscal Year 2011-2012 funding by the City of Yuma in the amount of \$27,000.00, and setting performance standards for Crossroads Mission. (YPD/Admin)
7. Authorize the execution of an agreement between Catholic Community Services Safe House and the City of Yuma providing for Fiscal Year 2011-2012 funding by the City of Yuma in the amount of \$15,500.00 and setting performance standards for Catholic Community Services Safe House Program. (YPD/Admin)
8. Authorize the execution of an agreement between Amberly's Place, and the City of Yuma providing for Fiscal Year 2011-2012 funding in the amount of \$41,580.00, and setting performance standards for Amberly's Place. (YPD/Admin)
9. Item continued; see below.
10. Authorize the execution of an agreement between the Yuma Visitors Bureau and the City of Yuma providing for Fiscal Year 2011-2012 funding by the City of Yuma in the amount of \$650,000.00 and setting performance standards for the Yuma Visitors Bureau. (Admin)
11. Authorize the City Administrator to enter into a Base Hospital Contract between Yuma Regional Medical Center and the City of Yuma. (YFD/Admin)

Motion Consent Agenda Item Removed For Separate Consideration

- B.9.** Authorize the execution of an agreement between Greater Yuma Economic Development Corporation and the City of Yuma providing for Fiscal Year 2011-2012 funding by the City of Yuma in the amount of \$200,000.00 and setting performance standards. (Admin)

Motion (Beeson/Johnson): To continue Item B9 to the July 6, 2011, Regular Council Meeting. Roll call vote: **approved** 4-3; Mendoza, McClendon, and Mayor Krieger voting nay.

Motion (Stuart/Brooks): To recess to Executive Session to discuss Item B9. Voice vote: **approved** 7-0; meeting recessed at 6:04 p.m and reconvened at 6:36 p.m.

III. RESOLUTION CONSENT AGENDA

Motion (Brooks/Mendoza): To approve the Resolution Consent Agenda as recommended.
Bushong displayed the following titles:

Resolution R2011-13

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a development agreement permitting the deferral of citywide Development Fees and Water and sanitary sewer capacity charges for Lot 9 of Barkley Ranch Unit 1E
(Applicants: Gerardo and Artemisa Torres) (Eng/Admin)

Resolution R2011-15

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a preannexation development agreement with the owner of real property located at the southeast corner of Avenue B and the 31st Street alignment
(Applicants: Shirrell E Swenson and Thelma N Swenson Living Trust, Patricia L. Swenson, and Shirrell E. and Lucile Swenson; APN: 105-32-112) (DCD/Planning)

Resolution R2011-16

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a development agreement permitting deferral of sanitary sewer capacity charges and the subsequent payment of the deferred amount in two installments
(Applicants: Sun Vista R.V. Resort) (Utilities/Admin)

Resolution R2011-17

A resolution of the City Council of the City of Yuma, Arizona, authorizing City sponsorship of resolutions for adoption by the League of Arizona Cities and Towns (League) for inclusion in the 2012 League Platform
(Admin)

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

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

Motion (Mendoza/McClendon): To adopt the Ordinance Consent Agenda as recommended.

Bushong displayed the following titles:

Ordinance O2011-21

An ordinance of the City Council of the City of Yuma, Arizona repealing Ordinance Number 1277 and Ordinance Number O95-027 which amend Section 170 and Section 50 of the City Code and creating a Parks, Arts and Recreation Commission, prescribing the terms and duties thereof, and providing for the appointment thereto
(Parks and Rec/Admin)

Ordinance O2011-22

An ordinance of the City Council of the City of Yuma, Arizona, amending Ordinance O97-49 to include the operation of a police substation among the purposes for acquisition of the real property (Property located at Araby Road and 26th Street) (PD/Admin)

Ordinance O2011-23

An ordinance of the City Council of the City of Yuma, Arizona, declaring certain parcels of real property, hereinafter described as Parcels B and D, surplus for use by the City and authorizing and directing that certain parcels of real property, hereinafter described as Parcels A and C, be acquired by the City of Yuma, Parcel C by purchase and Parcel A by exchange for City-owned Parcel B, for the reason that Parcels A and C are required to improve the public roadway and utility infrastructure and other public purposes as may be related thereto, and authorizing the City-owned remnant Parcel D to be sold and authorizing payment of all costs necessary for the acquisition, exchange and sale thereof

(Properties located at 32nd Street and Avenue 8E; and, 16th Street and 6th Avenue) (Eng/Admin)

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

V. INTRODUCTION OF ORDINANCES

Johnson requested Ordinance O2011-27 be considered separately.

Bushong displayed the following titles:

Ordinance O2011-24

An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City a portion of Section 1 and Section 12 of Township 9 South, Range 23 West, and that portion of Section 7 of Township 9 South, Range 22 West, of the Gila and Salt River Base & Meridian, Yuma County, Arizona and pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto

(Annexation Area A2011-02: Premier Storage; property located at the southeast corner of 32nd Street and Avenue 3^{3/4}E) (DCD/Planning)

Ordinance O2011-25

An ordinance of the City Council of the City of Yuma, Arizona, amending Title 15, Chapter 157 of the Yuma City Code, to repeal Section 7, the Arts and Cultural Facilities Development Fee (Admin)

Introduction of Ordinances Item Removed for Separate Consideration

- C. Ordinance O2011-27:** Ballot Language of the Yuma City Charter amendment propositions and order a Special Election to be held in conjunction with the scheduled November 8, 2011 General Election for the purpose of proposing the amendments to the qualified electors of the City of Yuma. (Admin/Clerk)

Motion 1 (Beeson/Johnson): To delete Article VI, Section 14, Compensation, from the ordinance entirely.

Beeson explained his reasoning for the motion, the country is currently in a recession and the employees have not seen a pay raise or cost of living increase in years; therefore, it would be inappropriate for the City Council to ask for a pay raise at this time, which is why he would like to remove the item from going to the ballot.

Johnson agreed, stating that there are several councilmembers up for re-election and this puts them in the position of voting themselves a raise, which sends a bad message to the citizens, many whom are unemployed, and the City's employees, regardless of how justified it may be. If the citizens think the City Council needs a raise, they can bring an initiative forward and put the issue on the ballot themselves.

Mendoza stated that he didn't run for office for the money. The recommendations were made by the City Charter Review Committee, who spent long hours deliberating Charter changes for the City Council to review, modify, approve and send to the voters. He stated that he doesn't want to give the impression that the City Council doesn't take the recommendations seriously and would prefer to send the recommendations to the voters to decide. The City Council is not asking for a pay raise, it is simply passing down the recommendations to the voters. **McClendon** agreed, stating it is important that the voters have the right to decide.

Beeson stated the Charter Review Committee did work hard and put forward great suggestions; however, there is nothing committing the City Council to their suggestions for the upcoming election. The recommendations could be forwarded to the voters when the recession is over but right now it sends the wrong message. Every effort is being made to tighten the budget; therefore, it is not appropriate to ask the voters to increase the elected officials pay.

McClendon stated she understands **Beeson's** point; however, if the voters approve the pay increase, it wouldn't go into effect until 2014. Again, the voters need to be the ones to determine whether or not the pay is increased.

Johnson agreed with **Beeson's** comments, although the pay wouldn't go into effect until 2014, it still puts certain councilmembers in the position of voting themselves a pay raise. If the voters want to increase the pay, they can bring an initiative forward. **Mayor Krieger** asked how many initiatives have been brought forward in the City of Yuma regarding the adjustment of elected official's compensation. **Johnson:** None, which sends the message that the public doesn't want to give the City Council a pay raise. **Mayor Krieger** disagreed with **Johnson's** statement, the citizens expect the City Council to review the Charter periodically, appoint people to a committee and put forth recommendations. Every other week staff puts the agenda packet together with recommendations from staff for the City Council to take action on. There is an election cycle every two years; therefore, it cannot be construed as the City Council voting themselves a pay raise. City Councilmembers can choose to do nothing, or move the issue that the public agrees with forward. The City Council has not seen an adjustment in 27 years, and there have been ups and downs along the way with the economy. In forwarding the recommendation to the voters, the City Council is creating the opportunity for the public to have an important voice on this matter.

Johnson stated that if the pay raise to \$6,000 for City Council and \$24,000 for Mayor were approved by the voters, the City Council would receive an estimated 72% pay increase whereas the Mayor would receive a 400% increase. **Mayor Krieger** stated the compensation would still be out of line with cost of living.

Mendoza stated the City of Yuma is unique in having a Charter Review Committee appointed to review the Charter and make recommendations, unlike other municipalities who have the ability to adjust their salaries without taking the issue to the voters.

Roll call vote: **failed** 3-4; Stuart, Mendoza, McClendon and Mayor Krieger voting nay.

Motion 2 A (McClendon/Mayor Krieger): To Select alternate number 1 as the ballot language for Article VI, Section 14 (a) presented in O2011-27, which would read “from and after January 1, 2014, the Mayor shall receive compensation of \$24,000 a year and each council member shall receive the compensation of \$6,000 a year.”

Mendoza thanked the Charter Review Committee for their time and recommended Charter amendments. He pointed out that the committee did recommend compensation equivalent to the Yuma County Board of Supervisors, but the City Council lowered the numbers.

Johnson asked if the voters would be casting a single ballot for the City Councilmembers and Mayor the salary adjustments, or two ballots. **Moore** stated it would be one ballot.

Roll call vote: **failed** 3-4; Stuart, Beeson, Brooks and Johnson voting nay.

Mayor Krieger asked for clarification on whether or not the City Council can vote on a similar motion being as the previous motion failed. **Moore** stated the City Council is free to do what ever they wish, whether it be choosing alternate one and changing the numbers or choosing alternate two with the same or different numbers.

Stuart explained his nay vote was due to the substantial percentage increase and would like to lower the amounts and restate the motion.

Motion 2B (Stuart/Mayor Krieger): To select alternate number 1 as the ballot language for Article VI, Section 14 (a) presented in Ordinance O2011-27, which would read “from and after January 1, 2014, the Mayor shall receive compensation of \$18,000 a year and each council member shall receive the compensation of \$5,000 a year.”

McClendon agreed with the motion and stated the issue needs to go to the ballot for the voters to decide.

Roll call vote: **adopted** 5-2; Beeson and Johnson voting nay.

Beeson stated he would not support a pay raise in a recession. **Johnson** concurred.

Motion 3 (McClendon/Mendoza): To select alternate number 2 as the ballot language for Article VI, Section 3 (c) (City Attorney) as presented in Ordinance O2011-27.

Mayor Krieger asked McClendon for clarification on the motion. **McClendon** explained the verbiage in alternate number one changes the word “may” in the statement “the final decision authority of all litigations of the City and may delegate to the City administrator...” to the word “shall”. **Johnson** stated that alternate one also states the City Council shall have final decision authority of all litigation and may delegate the day-to-day guidance to the City Administrator who may then delegate the hiring outside legal council to the City

Attorney whereas alternate two removes the City Council having input except in deciding whether or not the lawsuit is settled.

Roll call vote: **approved** 5-2; Johnson and Mayor Krieger voting nay.

Motion 4 (McClendon/Johnson): To amend Ordinance O2011-27 by eliminating Article XII, Section 1 (d), from the ordinance entirely. Roll call vote: **approved** 7-0.

Motion 5 (Stuart/Brooks): To introduce Ordinance O2011-27: Call of Special Election, as amended.

Bushong displayed the following title:

Ordinance O2011-27, as amended

An ordinance of the City Council of the City of Yuma, Arizona, ordering a Special Election for the qualified electors of the City of Yuma, Arizona, for the purpose of determining whether to amend the Charter of the City of Yuma, Arizona, as follows: amend Article IV, Section 4; Amend Article VI, Section 3(C); and amend Article VI, Section 14

(Finalize ballot language on Yuma City Charter Amendments and Call a Special Election) (Admin/Clerk)

Roll call vote: **approved** 6-1; Johnson voting nay.

Johnson explained that his vote is due to the ordinance containing a pay raise for the Mayor and City Council, while City employees are on a pay freeze and the number of employees has been reduced.

VI. PUBLIC HEARINGS AND RELATED ACTIONS - none

VII. BUDGET PUBLIC HEARINGS AND RELATED ACTIONS

- A. Resolution R2011-14:** The City of Yuma Budget for Fiscal Year 2011-2012 in the amount of \$242,766,617, which includes a Capital Improvement Program Budget of \$89,309,313 and an Operating Budget of \$153,457,304. (Finance/Admin)

Mayor Krieger opened the public hearing at 7:14 p.m.

Discussion

Wicks stated that although he doesn't have a presentation, he is prepared to answer any budget related questions the City Council may have.

Johnson asked about an item related to a CIP project on 24th Street between Avenues B and C, stating the project calls for the rebuilding of a two-lane road into a four-lane minor arterial with curb, gutter and sidewalks. Phase One was completed in 2005 with the relocation of a subdivision wall; Phase Two proposes spending \$2,368,000 to relocate APS facilities, construct a storm water basin following the remaining street widening and improvements. Would the storm water basin be constructed after the widening and improvements? **Mayor Krieger** reminded Johnson that the CIP was already adopted,

tonight's adoption of Resolution R2011-14 is for the overall budget. **Johnson** stated that the question isn't to proceed with the project or not, the information is needed to make a decision on the budget. **Mayor Krieger** stated that the City Council has had plenty of time to review the budget, and the CIP, and have those questions answered by staff. **Brooberg** stated that the word "following" should be replaced by the words "followed by."

Stuart pointed out that there was a slight discrepancy in numbers from the agenda to the motions on the dais. **Bushong** stated the motion placed on the dais this evening contains the correct numbers.

Johnson asked if the budget would be voted on as two separate items. **Mayor Krieger**: Yes. **Moore** explained State Law requires a conflict of interest be declared if there is a chance that a councilmember may have a financial gain, directly or indirectly, in a decision of the governing body. Although it is not legally required, it has been best practice to have the councilmembers leave the dais while the discussion, deliberation and decisions are being made where the conflict was declared. It is not unusual to have a councilmember declare a conflict in certain parts of the budget. Tonight, there will be two motions on the budget, due to Councilmember Beeson's conflict of interest. One of which will be to adopt the budget for Community Relations and the other to adopt the remaining portion of the budget. **Mayor Krieger** stated the conflict should be declared at the beginning, not when the item comes to a vote. **Moore**: Yes, the statute states the person cannot participate in any manner.

Motion 1 (Johnson/Mendoza): To approve the Final Budget for Fiscal Year 2011-2012 for the Community Relations Division 1012 Budget in the amount of \$657,890. Roll call vote: **adopted** 6-0-1; Beeson declaring a conflict of interest.

Motion 2 (McClendon/Mendoza): To approve the Final Budget for Fiscal Year 2011-2012, for a total amount of \$242,766,617 which includes a Capital Improvement Program Budget of \$89,309,313 and an Operating Budget of \$153,457,304, excluding the Community Relations Division 1012 Budget in the amount of \$657,890. Roll call vote: **adopted** 6-1; Johnson voting nay.

Johnson stated his nay vote is due to multi-million dollar project expenditures that are neither necessary nor prudent.

Mayor Krieger closed the public hearing at 7:27 p.m.

-
- B. Ordinance O2011-26:** Introduce Ordinance O2011-16, setting the 2011-2012 Primary Property Tax Levy and Mall Maintenance District Property Tax Levy. (Finance/Admin)

Mayor Krieger opened the public hearing at 7:27 p.m.

Bushong displayed the following title:

Ordinance O2011-26

An ordinance of the City Council of the City of Yuma, Arizona, fixing, levying, and assessing primary property taxes upon property within the City of Yuma subject to taxation, each in a certain sum upon each one hundred dollars (\$100) of valuation, sufficient to raise the amount estimated to be required in the annual budget for the fiscal year 2011-2012 less the amounts estimated to be received from other sources of revenue and the unencumbered balances from the previous fiscal year, providing a

general fund; and fixing, levying, and assessing upon property within the boundaries of the Main Street Mall and Offstreet Parking Maintenance District No. 1 subject to taxation, each in a certain sum upon each one hundred dollars of valuation, sufficient to raise the amount estimated to be required for the operation, maintenance, repair and improvement of the facilities of said district, all for the fiscal year ending June 30, 2012

(Finance/Admin)

Mayor Krieger closed the public hearing at 7:28 p.m.

VIII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Appointments

Motion (Johnson/Mendoza): To re-appoint David Koopman to the Design and Historic Review Commission with a term to expire on December 31, 2015. Voice vote: **approved** 7-0.

Motion (Johnson/Brooks): To re-appoint David Montoya to the Design and Historic Review Commission with a term to expire on December 31, 2015. Voice vote: **approved** 7-0.

Bushong stated the resolution for the budget should have been displayed previously and requested displaying it at this point.

Bushong read the following title:

Resolution R2011-14

A resolution of the City Council of the City of Yuma, Arizona, adopting estimates of proposed expenditures by the City of Yuma for the fiscal year beginning July 1, 2011, and ending June 30, 2012; declaring that such shall constitute the adopted budget of the City of Yuma for such fiscal year; declaring necessity of boards and commissions; and authorizing employment of outside legal counsel
(Finance/Admin)

Announcements

Johnson reported on attending a Rural Transportation Advocacy Council meeting in Phoenix where he learned ADOT's funding for the Fortuna Wash Bridge and the Port of Entry improvements at San Luis have been partially restored but the project has been pushed back to 2015-2016.

Mendoza reported he would be holding his monthly meeting with the community at the Coffee Bean on 24th Street and 4th Avenue from 9:00 a.m. to 11:00 a.m.

McClendon reported that she would be attending the Yuma Visitors Bureau's annual dinner meeting at the Pivot Point Conference Center, the fundraiser for Amberly's Place at Main Street Cinema, Juneteenth, and The Arizona Classical Ballet at Snider Auditorium

IX. SUMMARY OF CURRENT EVENTS

Wilkinson announced the following upcoming events:

- June 18, there will be Scuba classes at the Valley Aquatics Center.
- June 19, will be a Father's Day swim, also at the Valley Aquatics Center
- July 2, the Caballero's River Float Down

X. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Krieger** adjourned the meeting at 7:31 p.m. An Executive Session was held during the meeting.

Lynda L. Bushong, City Clerk

APPROVED:

Alan L. Krieger, Mayor

DRAFT



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: City Administration

DIVISION: City Clerk

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

TITLE:
Special Event Liquor License: Yuma Fine Arts Association

SUMMARY RECOMMENDATION:

Approve a Special Event Liquor License application submitted by Carolyn J. Bennett, on behalf of the Yuma Fine Arts Association, for the Oktoberfest event. The event will be held at the Yuma Art Center, located at 254 S. Main Street, on Saturday, October 1, 2011, from 6:00 p.m. to 9:00 p.m. (SP11-28)

REPORT:

Carolyn J. Bennett, on behalf of the Yuma Fine Arts Association, has applied for a Special Event Liquor License for the Oktoberfest event. The event will be held at the Yuma Art Center, located at 254 S. Main Street, on Saturday, October 1, 2011, from 6:00 p.m. to 9:00 p.m.

As per State Liquor License requirements, the Yuma Art Center has agreed to suspend a portion of their liquor license that covers the Yuma Art Center complex on the date and time listed above.

The application has been sent to Community Development, Police Department, Fire Department, Risk Management and Parks & Recreation for their department review. No objections have been received.

Upon City Council's recommendation of approval, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

| | | | | |
|------------------------|---|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: Application fee revenue: \$20.00 | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Special Event Liquor License application 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Lynda L. Bushong | | 9/6/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Jasmin Rodriguez | | 9/6/2011 | | |



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: City Administration

DIVISION: City Clerk

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

TITLE:
Special Event Liquor License: St. Francis of Assisi Parish

SUMMARY RECOMMENDATION:
Approve a Special Event Liquor License application submitted by Christopher Orndorff, on behalf of the St. Francis of Assisi Parish, for the St. Francis Festival Dance. The fundraiser will be held at the St. Francis Hall, located at 1825 S. 8th Avenue on Saturday, October 8, 2011, from 5:00 p.m. to 12:00 a.m. (SP11-29)

REPORT:
Christopher Orndorff, on behalf of the St. Francis of Assisi Parish, has applied for a Special Event Liquor License for the St. Francis Festival Dance. The fundraiser will be held at the St. Francis Hall, located at 1825 S. 8th Avenue on Saturday, October 8, 2011, from 5:00 p.m. to 12:00 a.m.

The application has been sent to Community Development, Police Department, Fire Department, and Risk Management for their review. No objections have been received.

Upon City Council recommendation of approval, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

| | | | | |
|------------------------|---|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: Application fee revenue: \$20.00 | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Special Event Liquor License application 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Lynda L. Bushong | | 9/6/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Jasmin Rodriguez | | 9/6/2011 | | |



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: City Administration

DIVISION: City Clerk

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

TITLE:
Permanent Extension of Premises: Arizona Marketplace Eatery and Pub

SUMMARY RECOMMENDATION:
Approve an application for a Permanent Extension of Premises/Patio Liquor License Permit submitted by Clyde C. Curry, agent for Arizona Marketplace Eatery and Pub, located at 3351 Avenue 4E, Yuma, Arizona, to allow for an additional point of sale area. (EP11-05)

REPORT:
Clyde Clinton Curry, agent for Arizona Marketplace Eatery and Pub, has applied for a Permanent Extension of Premises/Patio Liquor to allow for an additional point of sale area. Currently there is only one area that is a point of sale and storage area. In addition, the Marketplace is requesting to add another point of sale location.

The entire establishment allows for consumption and signs are posted stating “no alcohol beyond this point” just before the parking lots, along with security at each exit/entrance.

The application has been sent to Community Development, Police Department, Fire Prevention, and the Business License Department for their review. No objections have been received.

Upon City Council recommendation of approval, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

| | | | | |
|------------------------|---|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: Application fee revenue: \$20.00 | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Extension of Premises/Patio Liquor License Permit application 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Lynda L. Bushong | | 9/1/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Flora L. Hatch | | 9/1/2011 | | |

AVENUE 4E



CONSUMPTION AREA
 MARKETPLACE SQ FT = 562K SQ FT
 750 x 750



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: City Administration

DIVISION: City Clerk

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

TITLE:
Liquor License: Asian Star

SUMMARY RECOMMENDATION:

Approve an Interim Permit/New Restaurant, #12, Liquor License application submitted by Haumei Chen, agent for Asian Star LLC dba Asian Star, located at 276 W. 32nd Street, #1, Yuma, Arizona. (LL11-12)

REPORT:

Haumei Chen, agent for Asian Star LLC dba Asian Star, located at 276 W. 32nd Street, #1, Yuma, Arizona, has applied for an Interim Permit/New Restaurant, #12, Liquor License.

The subject property has been posted for the required 20-day period and no arguments in favor of or opposed to the issuance of this license have been received.

The application has been reviewed by Community Development, Police Department, Fire Department, and Business Licensing; no objections have been received.

Upon City Council recommendation of approval, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

| | | | | |
|------------------------|---|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: Application Fee \$250.00 | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Interim Permit/New Restaurant: #12 Liquor License Application 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/11/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Lynda Bushong | | 8/24/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Flora L. Hatch | | 8/10/2011 | | |



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: Finance

DIVISION: Purchasing

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

TITLE:
 Declare Surplus: Firearms

SUMMARY RECOMMENDATION:

Declare firearms from the Police Department consisting of evidence, unclaimed safekeeping and found firearms, as surplus.

(Police Department - RFO#2012000069) (Jerry Geier)

REPORT:

The Police Department has 162 firearms slated for sale by Request for Offer (RFO). The firearms will be made available for sale in accordance with Section 38-02 of the City Code of Ordinances, *Disposition of Unclaimed Property in the Custody of the City*. The state and federal computer systems were checked and none of these firearms are listed as stolen or missing. Staff determined that all of the firearms on the list are suitable for disposition as per the City ordinance. Staff will prepare a Request for Offer that specifies the following process:

- ◆ Advertise in local paper and on City’s website, and notify previous bidders
- ◆ Require vendors to submit current Federal Firearms License Certification to receive the RFO
- ◆ Conduct a pre-bid viewing allowing only qualified vendors to view firearms
- ◆ Require a 10% bid deposit
- ◆ Return to City Council for permission to award based on offers received
- ◆ Make award to highest qualifying bidder per lot

Staff recommends that City Council declare the items as surplus and authorize the sale of the weapons as stated above.

This recommendation has the concurrence of the Police Chief.

| | | | | |
|---------------------------------|---|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: Revenue generated from the sale of firearms will be deposited into the General Fund. | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Pat Wicks | | 8/29/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Peggy Hayes / Bill Pfannenstiel | | 8/29/2011 | | |

2011

ATTACHMENT A - FIREARMS

| Lot # | case number | make/model | finish (blue, chrome, stainless, etc.) | cal | Barrel Length inches | serial number | cond. (good, poor, fair) |
|----------|-----------------------|--------------------------|--|-----------|----------------------|---------------|--------------------------|
| 1 | 01-37742 | Hi Point | Black | 40 S&W | 4 | 114446 | Good |
| | 01-55976 | AA Arms AP9 | Black | 9mm Luger | 5 | 027065 | Fair |
| | 05-18715 | Hi Point C9 | Black | 9mm Luger | 4.5 | P191191 | Good |
| | 95-01789 | Ruger Blackhawk | Blue | 357 | 6 | 30-01841 | Good |
| | 93-13858 | Bauer Automatic | Stainless | 25 Auto | 2 | 151179 | Good |
| | 94-15236 | Lorcin L25 | Chrome | 25 Auto | 2 | 118021 | Good |
| | 98-2568 | Smith & Wesson Airweight | Blue | 38 Spl | 2 | C813828 | Good |
| | 94-13226 | Colt Woodsman | Blue | 22 | 6 | 52907 | Good |
| | 01-45318 | Norinco 213 | Blue | 9X19 | 4 | 705057 | Good |
| | 01-43820 | Ruger P95BC | Blue | 9MM | 4 | 313-50197 | Good |
| 99-20745 | Colt Combat Commander | Alloy | 45 | 4 | 705C55098 | Fair | |
| 2 | 09-27642 | H&R Mod 929 | Black | 22 LR | 4 | BA016479 | Good |
| | 10-30478 | Daewoo DP51 | Black | 9mm | 4 | 403563 | Good |
| | 02-05772 | Ruger Redhawk | Blue | 44 Mag | 8 | 502-57810 | Good |
| | 05-45690 | Hi-Point C9 | Black | 9mm Luger | 4 | P1252621 | Good |
| | 07-11920 | Hi-Point C9 | Black | 9mm Luger | 4 | P167757 | Good |
| | 10-03245 | Jimenez Arms JA380 | Blk / Sil | 380 | 3 | 080521 | Good |
| | 05-73990 | Colt Det Spc | Blue | 38 Spl | 2 | 767153 | Fair |
| | 01-42659 | Jennings J-22 | Silver | 22 | 3 | | Fair |
| | 82-06065 | Taurus revolver | Stainless | 38 Spl | 4 | 1558066 | Good |
| | 90-03265 | Rohm Revolver | Blue | 22 Short | 6 | 77700 | Poor |
| 3 | 09-61370 | S&W SW9VE | Blue | 9mm | | RAN7580 | Fair |
| | 08-57733 | Colt Agent | Black | 38 Spl | 1 | M62618 | Good |
| | 06-22197 | Colt Gold Cup | Black | 45 Auto | 5 | GCT13932 | Good |
| | 05-74985 | Vzor 70 | Black | 7.65 | 4 | 697127 | Good |
| | 03-40646 | Imez Baikal | Black | 380 ACP | 4 | BOP2793 | Good |
| | 97-7182 | Llama IIIA | Black | 380 | 3 | 07-040761896 | Good |
| | 08-61519 | Hi-Point C9 | Black | 9mm Luger | 5 | P1347484 | Good |
| | 06-50564 | Bersa Firestorm | Black | 380 ACP | 3.5 | 705756 | Good |
| | 09-63896 | Taurus Revolver | Silver | 38 Spl | | GG41911 | Good |
| | 10-23386 | Springfield XP357 | Black | 357 Sig | 4 | US336931 | Good |
| 02-35950 | Titan | stainless | 25 Auto | 2 | ED90855F | Poor | |
| 94-13876 | H&K HK4 handgun | Blue | 32 Auto | 3 | 16627 | Poor | |
| 4 | 06-7420 | Hi-Point CF380 | Black | 380 ACP | 4 | P770673 | Good |
| | 04-73507 | Ruger Single Six | Blue | 22 | 6 | 542937 | Fair |
| | 04-16222 | S&W Mod 36 | Blue | 38 Spl | 3.5 | 690615 | Fair |
| | 06-1438 | Derringer pistol | Black | 38 Spl | 3 | L67101 | Good |
| | 09-21315 | Llama Pistol | Blue | 380 | 3 | C06944 | Good |
| | 09-15639 | S&W SW40VE | Silver | 40 S&W | 4 | RBD3629 | Good |
| | 09-1115 | H & R 922 | Blue | 22 | 6 | B7574 | Fair |
| | 09-27642 | H&R Premier 32 | Silver | 32 S&W | 3 | | Good |
| | 10-22909 | H&R Mod 925 | Blue | 38 S&W | 2.5 | AL56955 | Good |
| | 10-31049 | Davis Industries P380 | Chrome | 380 | 3 | AP458361 | Good |
| 10-36127 | Colt Automatic | Black | 25 Auto | 2 | 370069 | Fair | |
| 5 | 08-42359 | Keltec P11 | Black | 9mm Luger | 3 | AEA38 | Fair |
| | 01-15028 | Browning Hi Power | Black | 9mm Luger | 4 | 275nv51758 | Good |
| | 02-46279 | Colt Combat Commander | Blue | 9mm Luger | 4 | 70BS76045 | Fair |
| | 02-8035 | Ruger P97DC | Stnlss | 45 ACP | 4 | 66320758 | Fair |
| | 10-17317 | Ruger P94 | Gray | 40 Auto | 4 | 341-10365 | Fair |
| | 06-49043 | S&W Mod 10 | Black | 38 Spl | 4 | 160390 | Good |
| | 02-48349 | Mondial 999 | Black | 22 | 4 | A19275 | Fair |
| | 08-26944 | FN Auto Pistol | Black | 7.65 | 3 | 364256 | Good |
| | 03-59152 | Jennings J22 | Chrome | 22 LR | 2.5 | 722395 | Fair |
| | 08-52475 | Raven Arms P25 | Chrome | 25 Auto | 2.25 | 042817 | Fair |

| <u>Lot #</u> | <u>case number</u> | <u>make/model</u> | <u>finish</u> (blue, chrome, stainless, etc.) | <u>cal</u> | <u>Barrel Length</u> inches | <u>serial number</u> | <u>cond.</u> (good, poor, fair) |
|--------------|--------------------------|--------------------------------|---|------------|-----------------------------|----------------------|---------------------------------|
| 6 | 01-76067 | Jennings J22 | Chrome | 22 LR | 2.5 | 671355 | Good |
| | 09-36320 | Ruger Security Six | Chrome | 357 | 4 | 154-50877 | Good |
| | 03-2671 | Rugar P95DC | Black | 9mm | 4 | 312-84256 | Good |
| | 04-68284 | H&R Premier 32 | Black | 32 S&W | 4 | 501311 | Good |
| | 09-51284 | Lucznik P64 | Black | 9X18 | 3 | RZ02010 | Good |
| | 09-1693 | Davis Arms D380 | Chrome | 380 Auto | 4 | AP413576 | Good |
| | 09-57406 | Klerke | Chrome | 22 LR | 2 | 1143874 | Good |
| | 06-49573 | AMT Backup | Black | 380 | 3 | A26683 | Fair |
| | 02-53717 | Colt Automatic | Blue | 25 Auto | 2 | 230596 | Poor |
| | 10-39820 | Davis Arms D38 | Silver | 38 Spl | 2.75 | D010517 | Good |
| 7 | 98-10752 | Beretta 21A | Blue | 22 | 2.5 | BCS26944 | Fair |
| | 09-30427 | S&W SW40VE | Stainless | 40 S&W | 4 | RBE1530 | Good |
| | 06-45550 | Walther P38 | Blue | 9mm | 5 | 088803 | Good |
| | 07-54733 | Hi Point C9 | Black | 9mm Luger | 3 | P1273794 | Fair |
| | 08-20792 | S&W Revolver | Chrome | 38 Spl | 4 | 230676 | Good |
| | 02-3476 | Phoenix Arms Raven | Blue | 25 Auto | 2 | 3153529 | Fair |
| | 08-40350 | Hi Point C9 | Black | 9mm Luger | 2 | P1402191 | Good |
| | 01-19990 | Llama Camanche III | Blue | 357 | 4 | 908574 | Good |
| | 09-53216 | Ruger Mk II Target | Blue | 22 LR | 5 | 18-04745 | Good |
| 09-47538 | Taurus Revolver | Stnlss | 357 | 3 | S1763433 | Good | |
| 8 | 06-21685 | Browning Buckmark | Black | 22 LR | 5.5 | 515MM12970 | Good |
| | 06-21685 | Hi Point CF380 | Black | 380 ACP | 3 | P758287 | Good |
| | 98-10752 | Ruger Single Six New Model | Blue | 22 | 6 | 67-70362 | Fair |
| | 05-65889 | Ruger P85 | Black | 9mm | 4.5 | 300-93905 | Good |
| | 05-65889 | Beretta 92F | Blue | 9mm | 4.5 | C715532 | Good |
| | 08-3685 | Hi Point JCP | Black | 40 S&W | 4.5 | 756500 | Good |
| | 05-48719 | Rohm RG10 | Black | 22 | 2 | S032720 | Poor |
| | 08-6034 | Davis DN Derringer | Chrome | 22 Magnum | 2.5 | 133740 | Good |
| | 97-04358 | Colt MK IV handgun | blue | 38 Super | 4 | 70505075 | Fair |
| 94-12853 | Grendel P-10 | Blue | 380 | 3 | 19894 | Poor | |
| 9 | 03-50413 | J.C.Higgins Mod 103.181 | Blue | 22 LR | 27 | Unk | Good |
| | 09-29098 | Winchester Mod 12 | Blue | 12 ga | 28 | 1576699 | Good |
| | 09-29098 | Remington Mod 34 | Blue | 22 LR | 24 | 114470 | Good |
| | 09-484 | Mossberg Maverick Mod 88 | Blue | 12 ga | 28 | MV814745 | Good |
| | 09-49184 | Winchester 190 | Blue | 22 LR | 21 | B1146456 | Fair |
| | 06-4259 | Savage 30E | Blue | 12 ga | 26.5 | | Fair |
| | 03-59160 | Winchester 67A | Blue | 22 LR | 27 | | Fair |
| | 99-41166 | Brolin Arms BP370 | Blue | 12ga | 21 | 9903802 | Good |
| | 08-39113 | Winchester Mod 37 | Blue | 20ga | 28 | | Fair |
| 08-39113 | Remington 740 Woodmaster | Blue | 30-06 | 25 | 201359 | Good | |
| 10 | 99-1563 | Smith & Wesson Mod 916A | Blue | 12 ga | 27 | 204B76 | Fair |
| | 99-37911 | Savage Stevens Mod 67 Series E | Blue | 12ga | 28 | C739351 | Good |
| | 05-65889 | Ruger Mini 14 | Stainless | 223 | 18 | 186-05899 | Good |
| | 05-65889 | Mossberg 500A | Blue | 12ga | 28 | K900004 | Good |
| | NONE | New Englad Firearms Pardner | Blue | 12 ga | 28 | NJ238512 | New |
| | NONE | New Englad Firearms Pardner | Blue | 12 ga | 30 | NO231520 | New |
| | NONE | Remington 870 | Black | 20 ga | 30 | A296462U | New |
| | 09-58476 | Iver Johnson | Blue | 12 ga | 30 | 81187 | Fair |
| | 00-5613 | Remington Mod 740 | Blue | 30-06 | 22 | 126003 | Good |
| 01-34655 | SKS | Blue | 7.62 | 18 | 24CC3C77 | Fair | |

| Lot # | case number | make/model | finish (blue, chrome, stainless, etc.) | cal | Barrel Length inches | serial number | cond. (good, poor, fair) |
|---------|----------------------|---------------------------------|--|------------|----------------------|---------------|--------------------------|
| 11 | 99-22640 | Remington Mod 870 | Blue | 12 ga | 27 | X311771M | Fair |
| | 99-03136 | Fox Model B Dbl Barrel Shotgun | Blue | 12 ga | 30 | A673433 | Good |
| | 07-45387 | Ithaca Mod 37 | Blue | 16ga | 19 | 174079 | Poor |
| | 02-35950 | Winchester Mod 190 | Blue | 22 LR | 19.5 | 354738 | Fair |
| | 97-8614 | Mossberg 500 ATP | Blue | 12 ga | 18.5 | J197973 | Fair |
| | 98-16237 | JP Clabrough dbl barrel shotgun | Blue | 12ga | 30 | 18479 | Julging Barre |
| | 98-5022 | Winchester Mod 1400 | Blue | 12ga | 24 | N547206 | Fair |
| | 98-5022 | Russian M91 | Blue | 7.62 | 30 | 52965 | Good |
| | 07-40031 | Ruger 10/22 rifle | Stnlss | 22 LR | 19 | 350-10212 | Good |
| | 97-13360 | Winchester Mod 1200 | Blue | 12ga | 30 | 448291 | Good |
| 12 | 98-9848 | Remington Mod 700 | Blue | 222 | 25 | B6541374 | Fair |
| | 99-04557 | Remington Nylon 66 | Blue | 22 LR | 19 | 2569338 | Fair |
| | 99-04557 | H&R Mod 088 | Blue | 20 ga | 26 | BA465044 | Fair |
| | 99-16959 | Excel Shotgun no stock | Blue | 410 | 26 | 34992 | Poor |
| | 98-10752 | Marlin Mod 60 | Blue | 22 LR | 21 | 07300673 | Fair |
| | 97-00288 | Revelation Mod 125A | Blue | 22 LR | 18 | 04891B | Poor |
| | 97-00288 | Glenfield Mod 75 | Blue | 22 LR | 18 | 70297671 | Poor |
| | 99-01078 | Ruger Mod 10/22 Rifle w/scope | Blue | 22 LR | 18 | 247-92976 | Good |
| | 02-35950 | J.C.Higgins Mod 50 | Blue | 270 Win | 21.5 | 58391 | Good |
| | 95-12894 | Mossberg 342KA | Blue | 22 LR | 18.5 | 542KA | Fair |
| 94-5547 | Central Arms shotgun | Blue | 12ga | 19 | | Good | |
| 13 | 98-07945 | Mossberg Mod 500C | Blue | 20 ga | 22 | L525601 | Good |
| | 00-10349 | Mossberg Mod 500A | Blue | 12 ga | 18 | P812819 | Good |
| | 06-44204 | Savage Arms Stevens86C | Blue | 22 LR | 24 | | Fair |
| | 03-81801 | Remington 33 | Blue | 22 LR | 24 | | Fair |
| | 06-55307 | Winchester 70 | Blue | 270 Win | 25 | 173161 | Fair |
| | 98-16237 | Remington Mod 11 | Blue | 12ga | 29 | 341887 | Good |
| | 07-40031 | Ruger 10/22 rifle | Black | 22 LR | 19 | 350-36107 | Good |
| | 04-48 | Mossberg 395KB | Blue | 12 ga | 27 | 897406 | Good |
| | 10-23386 | Saiga 12 Auto Shotgun | Black | 12 ga | 19 | 8449985 | Good |
| | 99-30487 | JC Higgins 583.22 | Blue | 20 ga | 26 | | Good |
| 14 | 94-6869 | Remington 1100 | Blue | 12 ga | 26 | L052741V | Fair |
| | 03-81801 | Savage Arms 15A | Bue | 22 LR | 22 | | Fair |
| | 03-30879 | Remington 870 Express | Blue | 12ga | 26 | A892111 | Good |
| | 09-27642 | Wards Westernfield | Blue | 22 LR | 23 | 04M495A | Good |
| | 04-48 | Stevens Mod 258B | Blue | 20 ga | 27 | | Good |
| | 05-61838 | Remington Mod Six | Blue | 30-06 | 22 | A4021965 | Good |
| | 94-13944 | JC Higgins Mod 60 | Blue | 12 ga | 26 | | Good |
| | 99-30487 | Marlin Mod 120 | Blue | 12 | 30 | A03240 | Good |
| | 97-10855 | New England Pardner | Blue | 20 ga | 25 | hg407097 | Good |
| | 99-31518 | Gaucha lga | Blue | 12 ga | 28 | 864741 | Fair |
| 15 | 99-30487 | Remington Mod 522 Viper | Blue | 22 | 20 | 3013115 | Good |
| | 97-7182 | Marlin Mod 60 | Blue | 22 LR | 22 | 5231365 | Good |
| | 10-39820 | Mossberg Mod 88 | Blue | 12 ga | 18 | MV80946D | Good |
| | 07-47321 | Remington Mod 550-1 | Blue | 22 LR | 24 | 1306191 | Good |
| | 07-47321 | Springfield 1898 | Blue | 30-40 Krag | 30 | 410342 | Fair |
| | 10-23386 | Remington Mod 742 w/Scope | Blue | 30-06 | 23 | A7062943 | Good |
| | 10-23386 | WASR assault rifle | Black | 7.62 | 16 | 1971CS0891 | Good |
| | 05-61838 | Savage Arms 325C | Blue | 30-30 | 22 | none | Fair |
| | 98-1828 | Mossberg Mod 500A | Blue | 12 ga | 18 | K891226 | Good |
| | 03-73508 | Marlin Lever Mod 39A | Blue | 22 LR | 24 | 3397 | Fair |

| <u>Lot #</u> | <u>case number</u> | <u>make/model</u> | <u>finish</u> (blue, chrome, stainless, etc.) | <u>cal</u> | <u>Barrel Length inches</u> | <u>serial number</u> | <u>cond.</u> (good, poor, fair) |
|--------------|--------------------|-----------------------------|---|------------|-----------------------------|----------------------|---------------------------------|
| 16 | 09-24286 | Mossberg Shotgun Barrel | Blue | 20 ga | 20 | Unk | Good |
| | 10-11077 | Savage Arms Mod 110E | Blue | 270 Win | 23 | E955662 | Good |
| | 09-27848 | Norinco EM321 | Blue | 22 LR | 20 | 90005009 | Good |
| | 04-35365 | Norenko SKS | Black | 7.62 | 26 | 1612152 | Fair |
| | 03-73508 | Remington Nylon 66 | Blue | 22 LR | 24 | | Fair |
| | 05-18076 | Mossberg Target Rifle | Blue | 22 LR | 26 | | Fair |
| | 03-52106 | A.Rossi SA Shotgun | Blue | 12 ga | 28 | SP015443 | Good |
| | 99-9568 | Springfield/Stevens Dbl Bbl | Blue | 16 g | | | |



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011
DEPARTMENT: Finance
DIVISION: Purchasing

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

TITLE:
Request for Qualifications (RFQ): Emergency Environmental Services

SUMMARY RECOMMENDATION:

Authorize staff to negotiate and execute a one-year contract with the option to renew for four additional one-year periods depending on the appropriation of funds and satisfactory performance, for Emergency Environmental Services with the following companies:

- | | |
|--|-----------------|
| 1. Nicklaus Engineering Incorporated (NEI) | Yuma, Arizona |
| 2. Kary Environmental Services Inc. (KES) | Mesa, Arizona |
| 3. Southwest Hazard Control (SHC) | Tucson, Arizona |

(Environmental Services - RFQ No. 2011000282) (Jack Dodd)

REPORT:

This contract will be used to obtain Emergency Environmental Remediation Services on an as-needed basis. The current Environmental Remediation contract does not cover emergency services. This contract will establish a list of vendors with pre-negotiated fee schedules to be contacted when emergency remediation services of an immediate nature are required due to public safety concerns.

The RFQ was distributed for solicitation as follows:

| BID STATISTICS | TOTAL | LOCAL VENDORS |
|--------------------------|-------|---------------|
| Bid Packages Distributed | 42 | 1 |
| Bids Received | 3 | 1 |

This recommendation has the concurrence of the Evaluation Committee and the Human Resources Director.

| | | | | |
|---------------------------------|---|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: Departments that require these services will be billed for the costs incurred by their department per incident/event. | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Pat Wicks | | 9/5/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Peggy Hayes / Bill Pfannenstiel | | 9/1/2011 | | |



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011
DEPARTMENT: Finance
DIVISION: Purchasing

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

TITLE:
Bid Award: Landscaping and Beautification (16th Street from Arizona Avenue to Yuma Palms Parkway)

SUMMARY RECOMMENDATION:
Award to the sole responsive/responsible bidder for the Landscaping and Beautification Project on 16th Street from Arizona Avenue to Yuma Palms Parkway, at a total cost of \$249,048.86 to:

JSA Company Yuma, Arizona

(City Engineering - Bid #2011000449) (Paul Brooberg)

REPORT:
The project will consist of providing all materials and labor to construct the landscaping and irrigation system and to establish landscaping along this Gateway Route roadway. In addition the Contractor will be removing any obstacles which hinder construction of the proposed improvement and traffic control, miscellaneous landscape establishment and all other work detailed in the plans and project manual.

JSA Company will be responsible for the landscape establishment during the six-month period after construction has been completed. During that time, the contractor will be maintaining the improvements, to insure that all plant material is viable.

The bid was distributed for solicitation as follows:

| BID STATISTICS | TOTAL | LOCAL VENDORS |
|--------------------------|-------|---------------|
| Notices Sent Out | 11 | 11 |
| Bid Packages Distributed | 13 | 8 |
| Bids Received | 1 | 1 |

After the bids were opened, staff contacted other local contractors that picked up the bid to determine why they did not respond. One of the contractors indicated that they didn't think they could be competitive against a landscaper that was bidding the job as the prime and another indicated they quoted to JSA as a subcontractor.

This recommendation has the concurrence of the CIP Administrator.

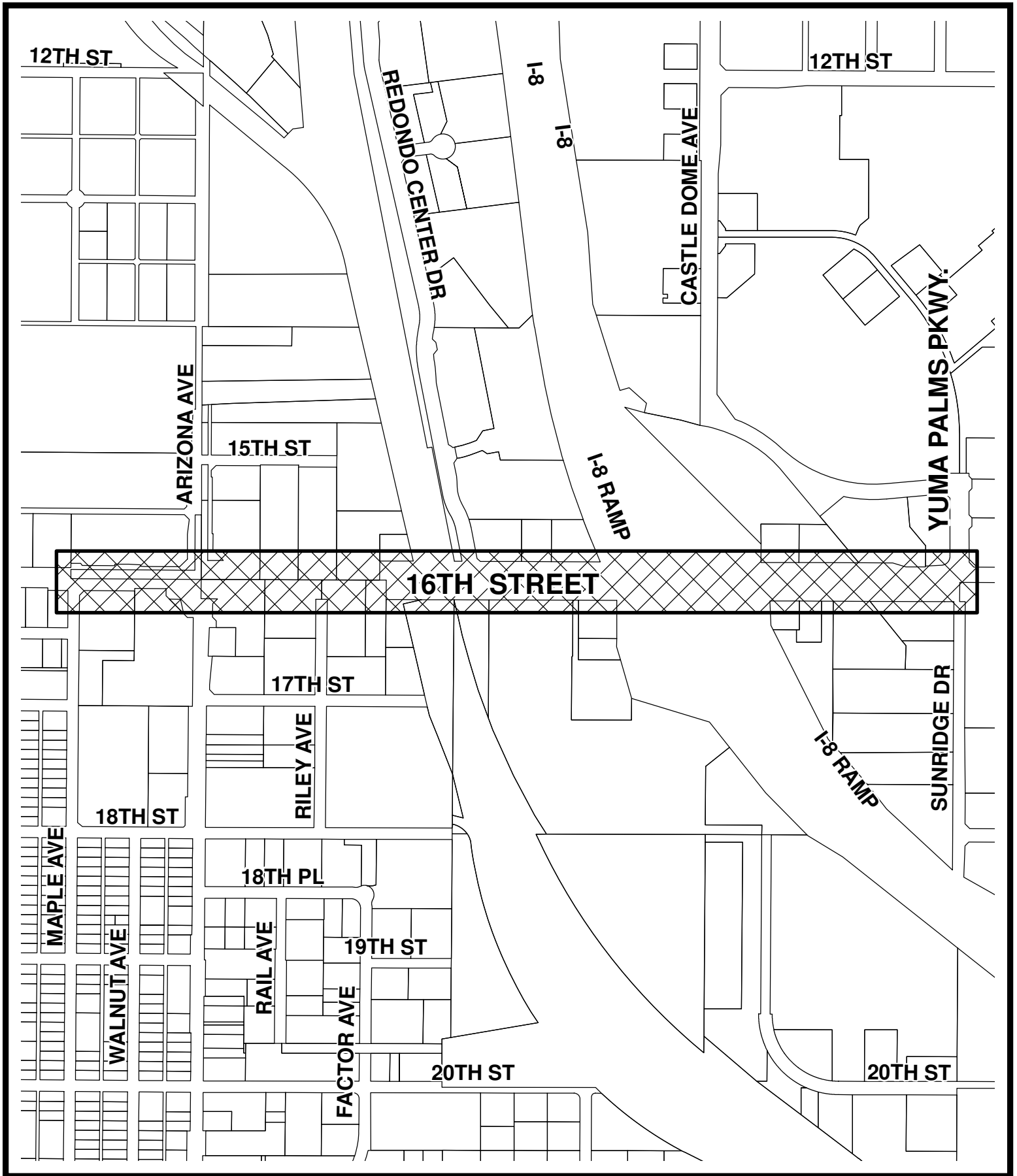
| | | | | |
|---|---|--------------|---|--------------|
| FISCAL REQUIREMENTS | CITY FUNDS: | \$249,048.86 | BUDGETED: | \$400,000.00 |
| | STATE FUNDS: | \$0.00 | AVAILABLE TO TRANSFER: | \$0.00 |
| | FEDERAL FUNDS: | \$0.00 | IN CONTINGENCY: | \$0.00 |
| | OTHER SOURCES: | \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: 332-97-77 Project 0032 Road | |
| | | \$0.00 | | |
| | | \$0.00 | | |
| TOTAL: | \$249,048.86 | | | |
| FISCAL IMPACT STATEMENT: Funds are included for the project in the adopted FY 2012 Capital Budget. | | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/13/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Pat Wicks | | 9/5/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Robin R. Wilson/Bill Pfannenstiel | | 8/26/2011 | | |

BID SUMMARY
BID NO 2011000449
Landscape and Beautification Project
(16th Street from AZ Avenue to Yuma Palms Parkway)

JSA Company
Yuma, AZ

| | |
|------------------|---------------------|
| Bid Items 1-29 | \$237,189.39 |
| 5% Contingency | \$11,859.47 |
| TOTAL BID | \$249,048.86 |
| | R |

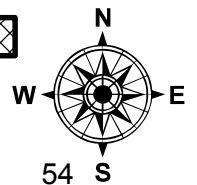
R=Recommend



NOTE: THIS MAP IS PREPARED TO SHOW GENERAL SITE LOCATION ONLY AND REPRESENTS NO SPECIFIC DIMENSIONS RELATED TO THE SITE.

LOCATION MAP

Subject Location = 



| |
|------------------------------|
| Checked by: Russell Reichelt |
| Created by: Sergio Penunuri |

| |
|--|
| CITY OF YUMA CITY ENGINEERING DEPARTMENT |
|--|

| |
|---------------|
| CIP No. |
| SCALE: N.T.S. |
| DATE: 9-9-11 |

An evaluation committee comprised of City staff reviewed and rated the Statement of Qualifications received. Staff requests City Council authorization to negotiate and execute contracts for *Professional Title and Escrow Services on a Delivery Order Basis*, as indicated above.

This recommendation has the concurrence of the Evaluation Committee and the City Engineer.

| | | | | |
|------------------------|---|----------------------------|--|--------------|
| FISCAL REQUIREMENTS | CITY FUNDS: | \$700,000.00 | BUDGETED: | \$700,000.00 |
| | STATE FUNDS: | \$0.00 | AVAILABLE TO TRANSFER: | \$0.00 |
| | FEDERAL FUNDS: | \$0.00 | IN CONTINGENCY: | \$0.00 |
| | OTHER SOURCES: | \$0.00 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: FY 2012 C.I.P. and OPS Budgets | |
| | TOTAL: | \$700,000.00 | | |
| | FISCAL IMPACT STATEMENT: Funds are included for various projects in the Capital Improvement Program Budget and Departmental Operating Budgets. | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Pat Wicks | | 9/5/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Bill Pfannenstiel | | 8/31/2011 | | |



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: City Engineering

DIVISION: Administration

- Motion
 Resolution
 Ordinance - Introduction
 Ordinance - Adoption
 Public Hearing

TITLE:

Intergovernmental Agreement: State of Arizona

SUMMARY RECOMMENDATION:

Authorize execution of an Intergovernmental Agreement with the State of Arizona for the widening and improvement of Avenue 3E, between 24th Street and the Gila Ridge Road and Interstate Route 8 intersections.

REPORT:

The City of Yuma (City) has been awarded a Coordinated Border Infrastructure grant of \$7,000,000 to be utilized for the widening and improvement of Avenue 3E, between 24th Street and the Gila Ridge Road and Interstate Route 8 intersections.

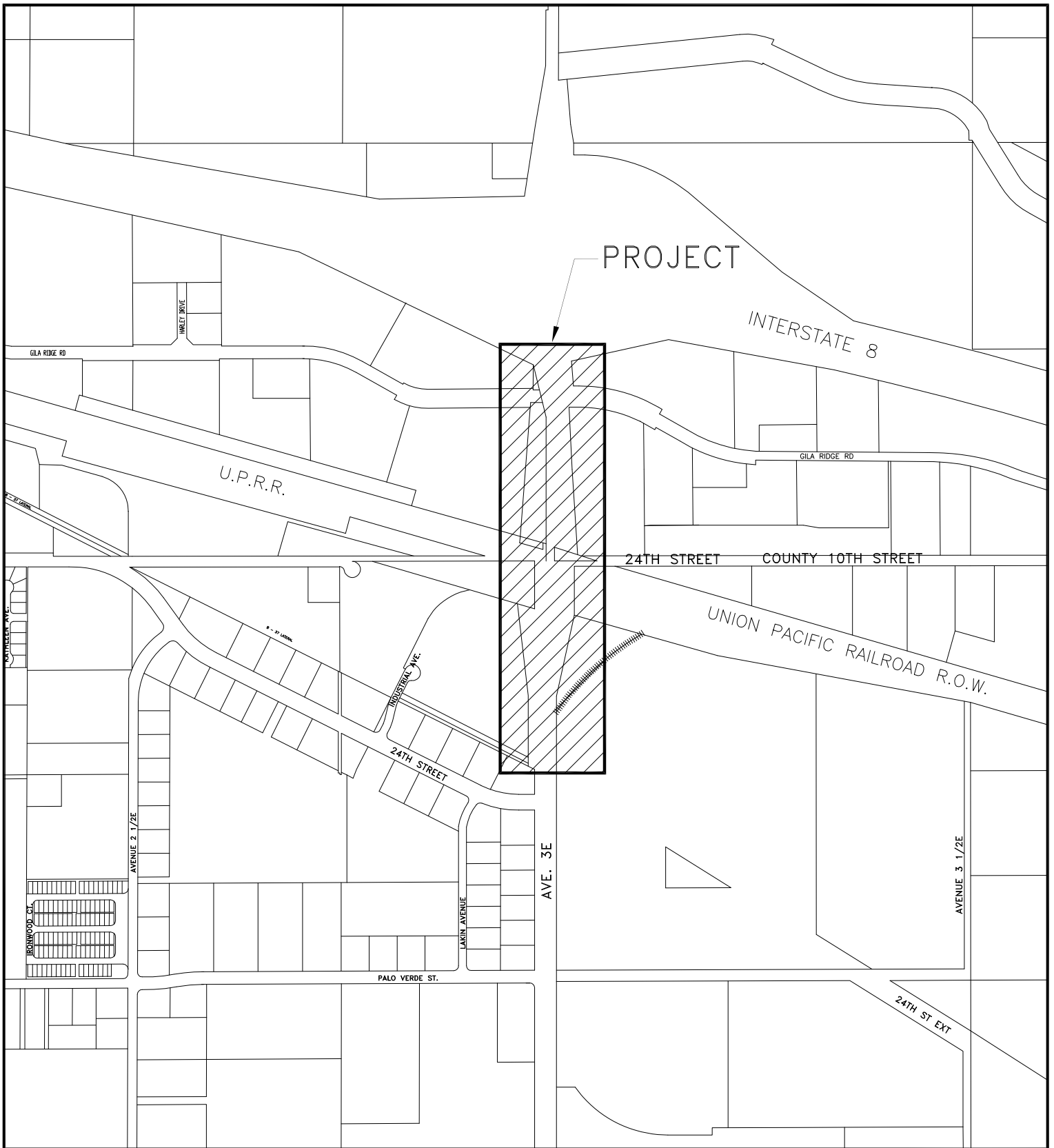
Total estimated construction costs, including administration and inspection, are called out in the agreement to be \$8,276,461. The City will be responsible for and has included the necessary local funds of \$1,276,461 in its Fiscal Year 2012 Capital Budget/FY2012 CIP Budget.

The agreement also memorializes the major project responsibilities, as follows:

1. **The City** provides the plans, specifications and right-of-way. Additionally, the City retains the design consultant during construction, should design-related questions arise.
2. **The State** advertises the bid and awards the contract. The State then provides the construction engineering and administrative services (through the local Yuma District office).

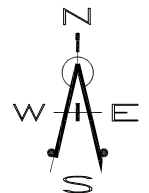
A location map of the project site is attached.

| | | | | |
|------------------------|---|----------------------------|---|----------------|
| FISCAL REQUIREMENTS | CITY FUNDS: | \$1,276,461.00 | BUDGETED: | \$9,179,000.00 |
| | STATE FUNDS: | \$0.00 | AVAILABLE TO TRANSFER: | \$0.00 |
| | FEDERAL FUNDS: | \$7,000,000.00 | IN CONTINGENCY: | \$0.00 |
| | OTHER SOURCES: | \$0.00 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: FY 2012 CIP | |
| | TOTAL: | \$8,276,461.00 | | |
| | FISCAL IMPACT STATEMENT: | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Paul Brooberg | | 9/6/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Teresa Blackburn | | 9/1/2011 | | |



NOTE: THIS MAP IS PREPARED TO SHOW GENERAL SITE LOCATION ONLY AND REPRESENTS NO SPECIFIC DIMENSIONS RELATED TO THE SITE.

LOCATION MAP



Checked by: RUSSELL REICHELT

CITY OF YUMA
CITY ENGINEERING
DEPARTMENT

DATE: 9-1-11

SCALE: N.T.S

REVISED:

Prepared by: SERGIO PEÑUÑURI

60

RESOLUTION NO. R2011-27

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA,
ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
WITH THE STATE OF ARIZONA, RELATED TO THE WIDENING AND
IMPROVEMENT OF AVENUE 3E, FROM 24TH STREET TO THE GILA
RIDGE ROAD AND INTERSTATE ROUTE 8 INTERSECTIONS**

WHEREAS, the City of Yuma, Arizona (City) and the State of Arizona (State), through the Arizona Department of Transportation have determined that the widening and improvement of Avenue 3E is necessary, from City 24th Street to the Gila Ridge Road and Interstate Route 8 intersections (Project); and,

WHEREAS, Avenue 3E (former State Route 280), within the identified site, is under the jurisdiction of the City; and

WHEREAS, the City has made successful application for Coordinated Border Infrastructure funding and must, therefore, conform to certain criteria for the use of said funding; and

WHEREAS, the State and the City realize and agree that the sharing of their resources will result in the expedited and proper construction of the Project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma, Arizona, that the City Administrator is authorized and directed to execute an Intergovernmental Agreement with the State of Arizona, as shown in Exhibit A, attached hereto and by this reference made a part hereof, for widening and improvement of Avenue 3E, between City 24th Street and the Gila Ridge Road and Interstate Route 8 intersections.

Adopted this _____ day of _____, 2011.

APPROVED:

Alan L. Krieger
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Steven W. Moore
City Attorney

Exhibit A

ADOT File No.: IGA/JPA 10-207I
AG Contract No.: P001 2010 00xxxx
Project: Avenue Widening
Section: Avenue, 3E Widening - Gila Ridge

Project No.: STP-YUM-0(208)A
ADOT Project No.: 0000 -YU-YUM-SS93101C
TIP/STIP No.: YMPO
Budget Source Item No.:

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF YUMA

THIS AGREEMENT is entered into this date _____, 2011, pursuant to the Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF YUMA, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
 2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
 3. Such Project lies within the boundary of the City and has been selected by the City; the survey of the Project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted by the State to the Federal Highway Administration (FHWA) for its approval.
 4. The City is requesting federal funding for the widening of Avenue 3E from Gila Ridge to 24th Street, hereinafter referred to as the "Project". The State shall advertise, bid and award the Project and provide Project construction engineering and administrations.
 5. The interest of the State in this project is the acquisition and distribution of federal funds for the use and benefit of the City and to authorize such federal funds for the project pursuant to Federal law and regulations. The State shall be the designated agent for the City.
-

6. The Federal funds will be used for the construction of the project, including the construction engineering and administration cost (CE).

The current Project costs are as follows:

TRACS No. SS931 01C

| | |
|--|-----------------------------|
| Federal Funds CBI @ 94.3% | \$ 7,000,000.00 |
| Local Funds @ 5.7% | \$ 423,118.00 |
| LOCAL Funds @ 100% | <u>\$ 853,343.00</u> |
| *TOTAL Project Costs | \$ 8,276,461.00 |
| *(Includes CE and project contingencies) | |

The Parties acknowledge that the final bid amount may exceed the initial estimate(s) shown above, and in such case, the City is responsible for, and agrees to pay, any and all eventual, actual costs exceeding the initial estimate.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

- a. The State has already invoiced and received **\$10,000** for the State's Design Review Fee.
- b. Upon receipt of the design review fee and on behalf of the City, review and approve documents required by FHWA to qualify certain projects for and to receive federal funds, providing comments to the City as appropriate. Such documents may consist of, but are not specifically limited to, environmental documents; the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities and such other related tasks essential to the achievement of the objectives of this Agreement.
- c. Upon completion of design, and prior to bid advertisement, invoice the City, for the City's share of funds for the construction costs of the Project currently estimated at **\$1,276,461.00**. Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual costs.
- d. Upon approval by FHWA, receipt of all City funds, and with the aid and consent of the City and the FHWA, the State shall proceed to advertise for, receive and open bids subject to the concurrence of the FHWA and the City, to whom the award is made for and enter into a contract(s) with a firms(s) for the construction of the Project.

h. Notify the City that the Project has been completed and is considered acceptable, coordinating with the City as appropriate and to turn over full responsibility of the Project improvements to the City.

i. Not be obligated to maintain said Project, should the City fail to budget or provide for proper maintenance as set forth in this Agreement.

2. The City will:

a. Upon execution of this Agreement, designate the State as authorized agent for the City.

b. The City has already remitted to the State **\$10,000** for the State's Design Review Fee.

c. Provide to the State design plans, specifications and other such documents and services required for the construction bidding and construction of the Project, including scoping/design plans and documents required by FHWA to qualify certain projects for and to receive federal funds. Incorporate State design review comments as appropriate.

d. Upon completion of design, within thirty (30) days of receipt of an invoice from the State, and prior to bid advertisement, remit to the State, the City's estimated share of funds for the construction costs of the Project in the amount equal to the difference between the total costs of the work provided for in this Agreement and the amount of federal funds (capped) received, currently estimated as **\$1,276,461.00**.

e. Be entirely responsible for all costs incurred in performing and accomplishing the work as set forth under this Agreement, not covered by federal funding, including the State's design review fee separately billed by the State and included in the Cost Estimate.

f. Enter into an agreement with the design consultant(s), solicited and selected in compliance with Federal Procurement Procedures, which defines a specific scope of services and approved contract price. Said design consultant(s) shall provide professional post-design services as required and requested throughout and upon completion of the construction phase of the Project.

g. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid and also certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, shall be removed from the proposed right-of-way, or will be removed prior to the start of construction. Coordinate with the appropriate State's Right-of-Way personnel during any right-of-way process performed by the City, if applicable.

h. Hereby grant the State, its agents and/or contractors, without cost, the right to enter City Rights-of-Way, as required, to conduct any and all construction and preconstruction related activities, including without limitation, temporary construction easements or temporary Rights-of-Entry to accomplish among other things, soil and foundation investigations.

i. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent of scope of the work requested by the City. Such changes require the prior approval of the State and FHWA. Be responsible for any contractor claims for additional compensation caused by Project delays attributable to the City. Payment for these costs shall be made within thirty (30) days of receipt of an invoice from the State.

j. Upon completion of the Project, assume responsibility for maintenance of the Project, at its own expense and as an annual item in its budget. Provide proper maintenance of the Project.

k. Upon completion of construction, be responsible for the electrical power and water necessary to maintain the Project.

I. Provide a set of as-built plans upon completion of the construction phase of the Project. An electronic version of the as-built plans shall be forwarded to Arizona Department of Transportation Section.

m. Pursuant to 23 USC 102(b), repay all Federal funds reimbursements for preliminary engineering costs on the Project if it does not advance to right of way acquisition or construction within ten (10) years after Federal funds were first made available.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project, except any provisions for maintenance/electrical power and/or landscaping maintenance shall be by the City. Further, this Agreement may be cancelled at any time prior to advertisement of the project construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said Project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid on behalf of the City, the provision of construction engineering and administration services and the fulfillment of any other responsibilities of the State as specifically set forth herein; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof shall be the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless, defend and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, or its independent contractors, the City, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. This agreement shall remain in force and effect until completion of the work and related deposits and reimbursements.

4. The cost of construction and construction engineering and administration work under this Agreement is to be covered by the federal funds set aside for this Project, up to the maximum available. The City acknowledges that the eventual actual costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by the federal government as eligible for federal funds. Therefore, the City agrees to furnish and provide the difference between actual costs and the federal funds received.

5. The cost of the project under this Agreement includes applicable indirect costs approved by the Federal Highway Administration (FHWA).

6. The City warrants compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 amendments and with Arizona Revised Statutes § 41-725.

7. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

8. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

9. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes § 35-214 and § 35-215 shall apply to this Agreement.

10. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding “Non-Discrimination”.

11. Non-Availability of Funds: Every obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by either Party at the end of the period for which the funds are available. No liability shall accrue to either Party in the event this provision is exercised, and neither Party shall be obligated or liable for any future payments as a result of termination under this paragraph.

12. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

13. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

City of Yuma
Attn: Paul Brooberg
155 West 14th Street, Suite B
Yuma, Arizona 85364
(928) 373-4520
(928) 373-4503Fax

For City Financial Matters:
Vendor No. 866000273 01
Purchasing & Contracts Manager
Attn: Donald Wicks
P.O. Box 13012
Yuma, Arizona 85366
(928) 373-5087
(928) 373-5068 Fax
bill.pfannenstiel@yumaaz.gov

14. Compliance requirements for Arizona Revised Statutes § 41-4401—immigration laws and E-Verify requirement:

a. Each Party warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Arizona Revised Statutes § 23-214(A).

b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Agreement, and the City may be subject to penalties up to and including termination of the Agreement.

c. Each Party retains the legal right to inspect the papers of any employee who works on the Project to ensure that the other Party, City, or subcontractor is complying with the warranty under paragraph (a).

16. Pursuant to Arizona Revised Statutes § 35-391.06 and § 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes § 35-391 and/or § 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

17. In accordance with Arizona Revised Statutes § 11-952(D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF YUMA

STATE OF ARIZONA

Department of Transportation

By _____
GREGORY K. WILKINSON
City Administrator

By _____
SAM MAROUFKHANI, P.E.
Deputy State Engineer, Development

ATTEST:

By _____
LYNDA L. BUSHONG
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF YUMA

I have reviewed the above-referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF YUMA, an Agreement among public agencies, and pursuant to Arizona Revised Statutes §§ 11-951 through 11-954, declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2011.

Steven W. Moore
City Attorney



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: Finance

DIVISION: Administration

- Motion
 Resolution
 Ordinance - Introduction
 Ordinance - Adoption
 Public Hearing

TITLE:

Amendments: 2010-2011 Tax Code of the City of Yuma

SUMMARY RECOMMENDATION:

Declare as a public record the 2010-2011 Amendments to the Tax Code of the City of Yuma.

REPORT:

The Yuma Tax Code is a lengthy document. Generally, all ordinances are required to be published once in the local newspaper, per Arizona Revised Statutes Section 9-802. The standard procedure for adoption by this method is for City Council to declare the proposed document a public record so that it can thereafter be adopted by reference, as allowed by the statute.

The amendments were proposed by the Unified Audit Committee of the Arizona Department of Revenue and adopted by the Model City Tax Code Commission during their April 2011 meeting. An ordinance to adopt the 2010-2011 Amendments to the Tax Code of the City of Yuma is scheduled for introduction at the Regular City Council Meeting of October 5, 2011.

| | | | | |
|------------------------|--|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/12/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Pat Wicks | | 9/8/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Sharon Willoughby | | 8/24/2011 | | |

RESOLUTION NO. R2011-28

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA,
DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED
WITH THE CITY CLERK TITLED, "THE 2010-2011 AMENDMENTS TO THE
TAX CODE OF THE CITY OF YUMA"**

WHEREAS, Arizona Revised Statutes § 9-802 permits municipalities to adopt the provisions of a code or public records by reference, and,

WHEREAS, adoption by reference saves the City of Yuma (City) the cost of publication of the code or public record, and,

WHEREAS, it is the intent of the City Council that a certain document titled, *2010-2011 Amendments to the Tax Code of the City of Yuma* be declared a public record so that the document may be adopted by reference.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows:

SECTION 1: That a certain document titled, *2010-2011 Amendments to the Tax Code of the City of Yuma*, attached hereto and by this reference made a part hereof, is declared to be a public record.

SECTION 2: Three copies of the *2010-2011 Amendments to the Tax Code of the City of Yuma* are ordered to remain on file in the Office of the City Clerk.

Adopted this _____ day of _____, 2011.

APPROVED:

Alan L. Krieger
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Steven W. Moore
City Attorney

**2010-2011 AMENDMENTS TO THE
TAX CODE OF THE CITY OF YUMA**

Section 1. Section 37-100 of the Tax Code of the City of Yuma is amended to read:

Sec. 37-100. General definitions.

For the purposes of this Chapter, the following definitions apply:

"Assembler" means a person who unites or combines products, wares, or articles of manufacture so as to produce a change in form or substance of such items without changing or altering component parts.

"Broker" means any person engaged or continuing in business who acts for another for a consideration in the conduct of a business activity taxable under this Chapter, and who receives for his principal all or part of the gross income from the taxable activity.

"Business" means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit, or advantage, either direct or indirect, but not casual activities or sales.

"Business Day" means any day of the week when the Tax Collector's office is open for the public to conduct the Tax Collector's business.

"Casual Activity or Sale" means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to a tax imposed by this Chapter. However, no sale, rental, license for use, or lease transaction concerning real property nor any activity entered into by a business taxable by this Chapter shall be treated, or be exempt, as casual. This definition shall include sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

"Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as authorized by Article III, Chapter 6, Title 42, Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

"Commercial Property" is any real property, or portion of such property, used for any purpose other than lodging or lodging space, including structures built for lodging but used otherwise, such as model homes, apartments used as offices, etc.

"Communications Channel" means any line, wire, cable, microwave, radio signal, light beam, telephone, telegraph, or any other electromagnetic means of moving a message.

"Construction Contracting" refers to the activity of a construction contractor.

"Construction Contractor" means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction

project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

"Delivery (of Notice) by the Tax Collector" means "receipt (of notice) by the taxpayer".

"Delivery, Installation, or Other Direct Customer Services" means services or labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer of tangible personal property; provided further that the charge for such labor or service is separately billed to the customer and maintained separately in the taxpayer's books and records.

"Engaging", when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

"Equivalent Excise Tax" means either:

- (1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or
- (2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or
- (3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

"Federal Government" means the United States Government, its departments and agencies; but not including national banks or federally chartered or insured banks, savings and loan institutions, or credit unions.

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. UNDER NO CIRCUMSTANCES SHALL "FOOD" INCLUDE AN EDIBLE PRODUCT, BEVERAGE, OR INGREDIENT INFUSED, MIXED, OR IN ANY WAY COMBINED WITH MEDICAL MARIJUANA OR AN ACTIVE INGREDIENT OF MEDICAL MARIJUANA.

"Hotel" means any public or private hotel, inn, hostelry, tourist home, house, motel, rooming house, apartment house, trailer, or other lodging place within the City offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes, or primary health care facilities.

"Job Printing" means the activity of copying or reproducing an article by any means, process, or method. "Job printing" includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

"Lessee" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Lessor" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Licensing (for Use)" means any agreement between the user ("licensee") and the owner or the owner's agent ("licensor") for the use of the licensor's property whereby the licensor receives consideration, where such agreement does not qualify as a "sale" or "lease" or "rental" agreement.

"Lodging (Lodging Space)" means any room or apartment in a hotel or any other provider of rooms, trailer spaces, or other residential dwelling spaces; or the furnishings or services and accommodations accompanying the use and possession of said dwelling space, including storage or parking space for the property of said tenant.

"Manufactured Buildings" means a manufactured home, mobile home or factory built building, as defined in A.R.S. Section 41-2142.

"Manufacturer" means a person engaged or continuing in the business of fabricating, producing, or manufacturing products, wares, or articles for use from other forms of tangible personal property, imparting to such new forms, qualities, properties, and combinations.

["MEDICAL MARIJUANA" MEANS "MARIJUANA" USED FOR A "MEDICAL USE" AS THOSE TERMS ARE DEFINED IN A.R.S. SECTION 36-2801.](#)

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 37-432 for such use. This definition shall not include:

- (1) janitorial equipment and supplies.
- (2) office equipment, office furniture, and office supplies.
- (3) motor vehicles licensed for use upon the highways of the State.

"Modifier" means a person who reworks, changes, or adds to products, wares, or articles of manufacture.

"Nonprofit Entity" means any entity organized and operated exclusively for charitable purposes, or operated by the Federal Government, the State, or any political subdivision of the State.

"Occupancy (of Real Property)" means any occupancy or use, or any right to occupy or use, real property including any improvements, rights, or interests in such property.

"Out-of-City Sale" means the sale of tangible personal property and job printing if all of the following occur:

- (1) transference of title and possession occur without the City; and
- (2) the stock from which such personal property was taken was not within the corporate limits of the City; and
- (3) the order is received at a permanent business location of the seller located outside the City; which location is used for the substantial and regular conduct of such business sales activity. In no event shall the place of business of the buyer be determinative of the situs of the receipt of the order.

For the purpose of this definition it does not matter that all other indicia of business occur within the City, including, but not limited to, accounting, invoicing, payments, centralized purchasing, and supply to out-of-City storehouses and out-of-City retail branch outlets from a primary storehouse within the City.

"Out-of-State Sale" means the sale of tangible personal property and job printing if all of the following occur:

- (1) The order is placed from without the State of Arizona; and
- (2) the property is delivered to the buyer at a location outside the State; and
- (3) the property is purchased for use outside the State.

"Owner-Builder" means an owner or lessor of real property who, by himself or by or through others, constructs or has constructed or reconstructs or has reconstructed any improvement to real property.

"Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the Federal Government, this State, or any political subdivision or agency of this State. For the purposes of this Chapter, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

"Prosthetic" means any of the following tangible personal property if such items are prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon, naturopath, optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser, physician assistant, nurse practitioner or veterinarian:

- (1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.
- (2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.
- (3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.
- (4) drugs or medicine, including oxygen.
- (5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.
- (6) durable medical equipment which has a Federal Health Care Financing Administration common procedure code, is designated reimbursable by Medicare, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

(7) UNDER NO CIRCUMSTANCES SHALL "PROSTHETIC" INCLUDE MEDICAL MARIJUANA REGARDLESS OF WHETHER IT IS SOLD OR DISPENSED PURSUANT TO A PRESCRIPTION, RECOMMENDATION, OR WRITTEN CERTIFICATION BY ANY AUTHORIZED PERSON.

"Qualifying Community Health Center"

(1) means an entity that is recognized as nonprofit under Section 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

- (a) the sole provider of primary care in the community.
- (b) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.

(2) includes clinics that are being constructed as qualifying community health centers.

"Qualifying Health Care Organization" means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and that uses, saves or invests at least eighty percent (80%) of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty percent (80%) requirement.

"Qualifying Hospital" means any of the following:

- (1) a licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (2) a licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.
- (3) a hospital, nursing care institution or residential care institution which is operated by the federal government, this State or a political subdivision of this State.
- (4) a facility that is under construction and that on completion will be a facility under subdivision (1), (2) or (3) of this paragraph.

"Receipt (of Notice) by the Taxpayer" means the earlier of actual receipt or the first attempted delivery by certified United States mail to the taxpayer's address of record with the Tax Collector.

"Remediation" means those actions that are reasonable, necessary, cost-effective and technically feasible in the event of the release or threat of release of hazardous substances into the environment such that the waters of the State are or may be affected, such actions as may be necessary to monitor, assess and evaluate such release or threat of release, actions of remediation, removal or disposal of hazardous substances or taking such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare or to the waters of the State which may otherwise result from a release or threat of release of a hazardous substance that will or may affect the waters of the State. Remediation activities include the use of biostimulation with indigenous microbes and bioaugmentation using microbes that are nonpathogenic, nonopportunistic and that are naturally occurring. Remediation activities may include community information and participation costs and providing an alternative drinking water supply.

"Rental Equipment" means tangible personal property sold, rented, leased, or licensed to customers to the extent that the item is actually used by the customer for rental, lease, or license to others; provided that:

- (1) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
- (2) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment", provided that:

- (1) the documentation relating to each purchased item so claimed specifically itemizes to the vendor the actual item of "rental equipment" to which the purchased item is intended to be attached as a repair or replacement part; and
- (2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
- (3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Repairer" means a person who restores or renews products, wares, or articles of manufacture.

"Resides within the City" means in cases other than individuals, whose legal addresses are determinative of residence, the engaging, continuing, or conducting of regular business activity within the City.

"Restaurant" means any business activity where articles of food, drink, or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant", and not a "retailer".

"Retail Sale (Sale at Retail)" means the sale of tangible personal property, except the sale of tangible personal property to a person regularly engaged in the business of selling such property.

"Retailer" means any person engaged or continuing in the business of sales of tangible personal property at retail.

"Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of property for a consideration. "Sale" includes any transaction whereby the possession of such property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes the fabrication of tangible personal property for consumers who, in whole or in part, furnish either directly or indirectly the materials used in such fabrication work.

"Solar Daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

"Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as a part of a normal structure, such as a window.

"Speculative Builder" means either:

(1) an owner-builder who sells or contracts to sell, at **any time**, improved real property (as provided in Section 37-416) consisting of:

~~A)~~(a) custom, model, or inventory homes, regardless of the stage of completion of such homes; or

~~B)~~(b) improved residential or commercial lots without a structure; or

(2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:

~~A)~~(a) prior to completion; or

~~B)~~(b) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

"Substantially Complete" means the construction contracting or reconstruction contracting:

1. has passed final inspection or its equivalent; or
2. certificate of occupancy or its equivalent has been issued; or
3. is ready for immediate occupancy or use.

"Supplier" means any person who rents, leases, licenses, or makes sales of tangible personal property within the City, either directly to the consumer or customer or to wholesalers, jobbers, fabricators, manufacturers, modifiers, assemblers, repairers, or those engaged in the business of providing services which involve the use, sale, rental, lease, or license of tangible personal property.

"Tax Collector" means the Director of Finance or his designee or agent for all purposes under this Chapter.

"Taxpayer" means any person liable for any tax under this Chapter.

"Telecommunication Service" means any service or activity connected with the transmission or relay of sound, visual image, data, information, images, or material over a communications channel or any combination of communications channels.

"Transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty (30) consecutive days.

"Utility Service" means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers

Section 2. Section 37-415 of the Tax Code of the City of Yuma is amended to read:

Sec. 37-415. Construction contracting: construction contractors.

(a) The tax rate shall be at an amount equal to one and seven-tenths percent (1.7%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.

(1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.

(2) (Reserved)

(3) gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 37-427.

(4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(b) Deductions and exemptions.

(1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.

(2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).

(3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(A) Section 37-465, subsections (g) and (p)

(B) (Reserved)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

(4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 37-110, that is deducted from the retail classification pursuant to Section 37-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(A) to be incorporated into real property.

(B) to become so affixed to real property that it becomes part of the real property.

(C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 37-465, subsection (g) shall be exempt from the tax imposed under this Section.

(7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this section.

(9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:

(A) The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. § 9-499.08, subsection D.

(B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

(C) Any other information considered to be necessary.

(10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(A) the attributable amount shall not exceed the value of the development fees actually imposed.

(B) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(C) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to [A.R.S. Section 9-463.05](#), [A.R.S. Section 11-1102](#) or [A.R.S. Title 48](#) regardless of the jurisdiction to which the fees are paid.

(11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, ~~2014~~2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(c) "Subcontractor" means a construction contractor performing work for either:

(1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City Privilege License number.

(2) an owner-builder who has provided the subcontractor with a written declaration that:

(A) the owner-builder is improving the property for sale; and

(B) the owner-builder is liable for the tax for such construction contracting activity; and

(C) the owner-builder has provided the contractor his City Privilege License number.

(3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site

preparation and set-up; and provided the subcontractor his City Privilege License number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

Section 3. Section 37-416 of the Tax Code of the City of Yuma is amended to read:

Sec. 37-416. Construction contracting: speculative builders.

(a) The tax shall be equal to one and seven-tenths percent (1.7%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.

(1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.

(2) "Improved Real Property" means any real property:

(A) upon which a structure has been constructed; or

(B) where improvements have been made to land containing no structure (such as paving or landscaping); or

(C) which has been reconstructed as provided by Regulation; or

(D) where water, power, and streets have been constructed to the property line.

(3) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.

(4) "Partially Improved Residential Real Property", as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

(b) Exclusions.

(1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.

(2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.

(3) (Reserved)

(4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:

(A) The speculative builder purchasing the partially improved residential real property has a valid City privilege license for construction contracting as a speculative builder; and

(B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the City at the time of sale of the partially improved residential real property; and

(C) The seller also:

(i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and

(ii) retains a copy of the written declaration provided by the buyer for the transaction; and

(iii) is properly licensed with the City as a speculative builder and provides the City with the written declaration attached to the City privilege tax return where he claims the exclusion.

(5) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 37-465, subsections (g) and (p)

(ii) (Reserved)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 37-465, subsection (g) shall be exempt from the tax imposed under this section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road,

excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(E) any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

(i) the attributable amount shall not exceed the value of the development fees actually imposed.

(ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to [A.R.S. Section 9-463.05](#), [A.R.S. Section 11-1102](#) or [A.R.S. Title 48](#) regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 37-110, that is deducted from the retail classification pursuant to Section 37-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
(C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, ~~2011~~2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax credits.

The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

(A) A tax credit equal to the amount of city privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

Section 4. Section 37-417 of the Tax Code of the City of Yuma is amended to read:

Sec. 37-417. Construction contracting: owner-builders who are not speculative builders.

(a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to one and seven-tenths percent (1.7%) of:

- (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in subsection 37-415(c)(2); and
- (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 37-465, subsections (g) and (p)

(ii) (Reserved)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 37-465, subsection (g) shall be exempt from the tax imposed under this Section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

(i) the attributable amount shall not exceed the value of the development fees actually imposed.

(ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public

services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 37-110, that is deducted from the retail classification pursuant to Section 37-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, ~~2014~~2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax credits.

The following tax credits are available to owner-builders and speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

(A) A tax credit equal to the amount of city privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

(d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 37-540, will be based on reportable date.

(e) (Reserved)

Section 5. Section 37-445 of the Tax Code of the City of Yuma is amended to read:

Sec. 37-445. Rental, leasing, and licensing for use of real property.

(a) The tax rate shall be at an amount equal to one and seven-tenths percent (1.7%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the City for a consideration including any improvements, rights, or interest in such property; provided further that:

(1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.

(2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.

(3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 37-470.

(b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

(c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

(d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.

(e) (Reserved)

(f) A person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces rented, leased or licensed or available for rent, lease, or license within the State and no units of commercial property for rent, lease, or license within the State, is not deemed to be in the rental business, and is therefore exempt from the tax imposed by this Section on such income. However, a person who has one (1) or more units of

commercial property is subject to the tax imposed by this Section on rental, lease and license income from all such lodging spaces and commercial units of real estate even though said person may have fewer than three (3) lodging spaces.

(g) (Reserved)

(h) Ninety-day occupancy exemption. The tax prescribed by this Section shall not include gross income from the rental of lodging or lodging space to an individual who resides therein, provided that said individual has occupied such lodging or lodging space for ninety (90) consecutive days or more. A lessor who receives gross income from rental of lodging or lodging space to any individual who has occupied the same lodging space for ninety (90) consecutive days on or before the effective date of this exemption shall be deemed to have qualified for this exemption on the effective date of this exemption.

(i) (Reserved)

(j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 37-444 of this code.

(k) (Reserved)

(l) (Reserved)

(m) (Reserved)

(n) Notwithstanding the provisions of Section 37-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.

(o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.

(p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.

(q) Charges to patients receiving "personal care" or "directed care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.

(r) Income received from the rental of any "low-income unit" as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit and the rent received from that unit.

(S) THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A COMMERCIAL LEASE IN WHICH A RECIPROCAL INSURER OR A CORPORATION LEASES REAL PROPERTY TO AN AFFILIATED CORPORATION. FOR THE PURPOSES OF THIS PARAGRAPH:

(1) "AFFILIATED CORPORATION" MEANS A CORPORATION THAT MEETS ONE OF THE FOLLOWING CONDITIONS:

(A) THE CORPORATION OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(B) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY THE LESSOR.

(C) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT ALSO OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(D) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A RECIPROCAL INSURER.

(2) FOR THE PURPOSES OF SUBSECTION (1), OWNERSHIP AND CONTROL ARE DETERMINED BY REFERENCE TO THE VOTING SHARES OF A CORPORATION.

(3) "RECIPROCAL INSURER" HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. SECTION 20-762.

Section 6. Section 37-595 of the Tax Code of the City of Yuma is amended to read:

Sec. 37-595. Collection of taxes when there is succession in and/or cessation of business.

(a) In addition to any remedy provided elsewhere in this City Code that may apply, the Tax Collector may apply the provisions of subsections (b) through (d) below concerning the collection of taxes when there is succession in and/or cessation of business.

(b) The taxes imposed by this Chapter are a lien on the property of any person subject to this Chapter who sells his business or stock of goods, or quits his business, if the person fails to make a final return and payment of the tax within fifteen (15) days after selling or quitting his business.

(c) Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the Privilege Tax imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner builder, as provided in Sections 37-416 and 37-417.

(1) ANY PERSON WHO IS A CREDITOR OR AN AFFILIATE OF CREDITOR, WHO ACQUIRES IMPROVED REAL PROPERTY DIRECTLY OR INDIRECTLY FROM THE CREDITOR'S DEBTOR BY ANY MEANS SET FORTH IN THIS SUBSECTION, SHALL PAY THE TAX BASED ON THE AMOUNT RECEIVED BY THE CREDITOR OR ITS AFFILIATE IN A SUBSEQUENT SALE OF SUCH IMPROVED REAL PROPERTY TO A

PARTY UNRELATED TO THE CREDITOR, REGARDLESS OF WHEN SUCH SUBSEQUENT SALE TAKES PLACE. SUCH TAX SHALL BE DUE IN THE MONTH FOLLOWING THE MONTH IN WHICH THE SALE OF THE IMPROVED REAL PROPERTY BY THE CREDITOR OR ITS AFFILIATE OCCURS. NOTWITHSTANDING THE FOREGOING, IF THE REAL PROPERTY MEETS THE DEFINITION OF PARTIALLY IMPROVED RESIDENTIAL REAL PROPERTY IN SECTION 37-416(A)(4) AND ALL OF THE REQUIREMENTS OF SECTION 37-416(B)(4) ARE MET BY THE PARTIES TO THE SUBSEQUENT SALE TRANSACTION, THEN THE TAX SHALL NOT APPLY TO THE SUBSEQUENT SALE.

(2) IN THE EVENT A CREDITOR OR ITS AFFILIATE USES THE ACQUIRED IMPROVED REAL PROPERTY FOR ANY BUSINESS PURPOSE, OTHER THAN OPERATING THE PROPERTY IN THE MANNER IN WHICH IT WAS OPERATED, OR WAS INTENDED TO BE OPERATED, BEFORE THE ACQUISITION OR IN ANY OTHER MANNER UNRELATED TO SELLING THE PROPERTY, THE TAX SHALL BE DUE. THE GROSS INCOME UPON WHICH THE TAX SHALL BE DETERMINED PURSUANT TO SECTIONS 37-416 AND 37-417 SHALL BE THE FAIR MARKET VALUE OF THE IMPROVED REAL PROPERTY AS OF THE DATE OF ACQUISITION. THE TAX SHALL BE DUE IN THE MONTH FOLLOWING THE MONTH IN WHICH SUCH FIRST BUSINESS USE OCCURS. WHEN APPLICABLE, THE CREDIT BID SHALL BE DEEMED TO BE THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE OF ACQUISITION.

(3) ONCE THE SUBSEQUENT SALE BY THE CREDITOR OR ITS AFFILIATE HAS OCCURRED AND THE CREDITOR OR ITS AFFILIATE HAS PAID THE TAX DUE FROM IT PURSUANT TO THIS SUBSECTION, NEITHER THE CREDITOR NOR ITS AFFILIATE, NOR ANY FUTURE OWNER, SHALL BE LIABLE FOR ANY OUTSTANDING TAX, PENALTIES OR INTEREST THAT MAY CONTINUE TO BE DUE FROM THE DEBTOR BASED ON THE TRANSFER FROM THE DEBTOR TO THE CREDITOR OR ITS AFFILIATE.

(4) IF THE TAX LIABILITY IMPOSED BY EITHER SECTION 37-416 OR SECTION 37-417 ON THE TRANSFER OF THE IMPROVED REAL PROPERTY TO THE CREDITOR OR ITS AFFILIATE, OR ANY PART THEREOF, IS PAID TO THE TAX COLLECTOR BY THE DEBTOR SUBSEQUENT TO PAYMENT OF THE TAX BY THE CREDITOR OR ITS AFFILIATE, THE AMOUNT SO PAID MAY CONSTITUTE A CREDIT, AS EQUITABLY DETERMINED BY THE TAX COLLECTOR IN GOOD FAITH, AGAINST THE TAX IMPOSED ON THE CREDITOR OR ITS AFFILIATE BY EITHER PARAGRAPH 1 OR PARAGRAPH 2 OF THIS SUBSECTION.

(5) NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, IF A CREDITOR OR ITS AFFILIATE IS SUBJECT TO TAX AS DESCRIBED IN PARAGRAPH 1 OR PARAGRAPH 2 OF THIS SUBSECTION AND SUCH CREDITOR OR AFFILIATE HAS NOT PREVIOUSLY BEEN REQUIRED TO BE LICENSED, SUCH CREDITOR OR AFFILIATE SHALL

BECOME LICENSED NO LATER THAN THE DATE ON WHICH THE TAX IS DUE.

(d) A person's successors or assignees shall withhold from the purchase money an amount sufficient to cover the taxes required to be paid, and interest or penalties due and payable, until the former owner produces a receipt from the Tax Collector showing that all City tax has been paid or a certificate stating that no amount is due as then shown by the records of the Tax Collector. The Tax Collector shall respond to a request from the seller for a certificate within fifteen (15) days by either providing the certificate or a written notice stating why the certificate cannot be issued.

(1) If a subsequent audit shows a deficiency arising before the sale of the business, the deficiency is an obligation of the seller and does not constitute a liability against a buyer who has received a certificate from the Tax Collector.

(2) If the purchaser of a business or stock of goods fails to obtain a certificate as provided by this Section, he is personally liable for payment of the amount of taxes required to be paid by the former owner on account of the business so purchased, with interest and penalties accrued by the former owner or assignees.



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: September 21, 2011

DEPARTMENT: City Engineering

DIVISION: Administration

- Motion
 Resolution
 Ordinance - Introduction
 Ordinance - Adoption
 Public Hearing

TITLE:

Waterline Easement: Engler Avenue

SUMMARY RECOMMENDATION:

Authorize the acquisition of easement right-of-way along Engler Avenue, south of 16th Street, for the extension, operation and maintenance of a waterline.

REPORT:

The City of Yuma (City) owns, operates and maintains potable water distribution facilities within the Mirada Del Sol subdivision, which is located east of Pacific Avenue and north of Interstate 8. The waterlines within the subdivision are fed only from a 12" diameter line in Pacific Avenue.

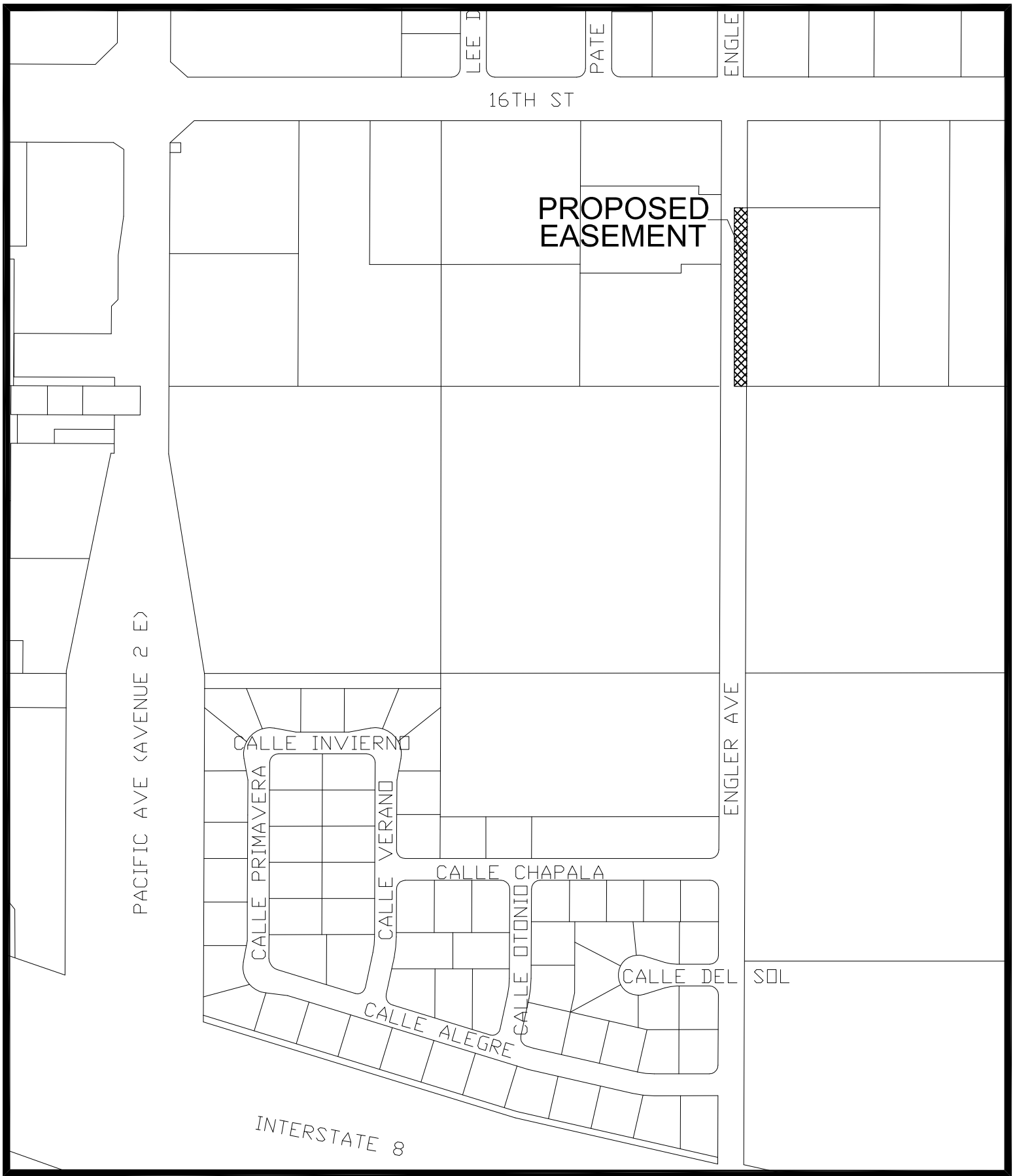
To create system redundancy and improved flow characteristics throughout the City's waterline facilities in that area, the City intends to connect these subdivision waterlines to another 12" diameter line in 16th Street. This connection would be along Engler Avenue.

When Yuma County acquired easement right-of-way for the construction of Engler Avenue, that easement did not include the use of the right-of-way for utility purposes.

To accomplish the City's goal of connecting the existing waterlines, it will be necessary for the City to acquire an easement measuring 410 feet long by 30 feet wide.

A location map denoting the proposed easement location is attached.

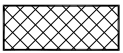
| | | | | |
|---|--|----------------------------|---|--------------|
| FISCAL REQUIREMENTS | CITY FUNDS: | \$1,500.00 | BUDGETED: | \$450,000.00 |
| | STATE FUNDS: | \$0.00 | AVAILABLE TO TRANSFER: | \$0.00 |
| | FEDERAL FUNDS: | \$0.00 | IN CONTINGENCY: | \$0.00 |
| | OTHER SOURCES: | \$0.00 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: FY 2012 CIP | |
| | TOTAL: | \$1,500.00 | | |
| | FISCAL IMPACT STATEMENT: | | | |
| | | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: | | | |
| | 1. 2. 3. 4. 5. | | | |
| IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? | | | | |
| <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | | DATE: |
| | Gregory K. Wilkinson | | | 8/30/2011 |
| | REVIEWED BY CITY ATTORNEY: | | | DATE: |
| | Richard W. Files for Steven W. Moore | | | 8/30/2011 |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | | DATE: |
| Paul Brooberg | | | 8/15/2011 | |
| WRITTEN/SUBMITTED BY: | | | DATE: | |
| Teresa Blackburn | | | 8/11/2011 | |



**PROPOSED
EASEMENT**

NOTE: THIS MAP IS PREPARED TO SHOW GENERAL SITE LOCATION ONLY AND REPRESENTS NO SPECIFIC DIMENSIONS RELATED TO THE SITE.

LOCATION MAP

Easement Site = 



Checked by: PAUL BROOBERG
Prepared by: SERGIO PEÑUÑURI

CITY OF YUMA
CITY ENGINEERING
DEPARTMENT

DATE: 8-10-11
SCALE: N.T.S
REVISED:

CIP NO.
7,9413
96

ORDINANCE NO. O2011-33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND DIRECTING THAT CERTAIN PARCELS OF REAL PROPERTY, HEREINAFTER DESCRIBED, BE ACQUIRED BY THE CITY OF YUMA, BY GIFT, EASEMENT, PURCHASE OR UNDER THE POWER OF EMINENT DOMAIN, FOR THE REASON THAT SUCH PROPERTY IS REQUIRED TO IMPROVE THE PUBLIC UTILITY INFRASTRUCTURE AND OTHER PUBLIC PURPOSES AS MAY BE RELATED THERETO, AND AUTHORIZING PAYMENT THEREFOR, TOGETHER WITH COSTS NECESSARY FOR THE ACQUISITION OF SAID REAL PROPERTY

WHEREAS, the City of Yuma (City) is authorized, pursuant to the City Charter, Article III, Section 2, to acquire real property; and

WHEREAS, the City has prepared design drawings for the extension of a waterline for the distribution of potable water along Engler Avenue, between 16th Street and Calle Chapala; and

WHEREAS, the installation and placement of said waterline and appurtenances necessary therefor requires that the City acquire additional right-of-way.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma, Arizona as follows:

SECTION 1: That it is deemed necessary and essential, as a matter of public necessity and public welfare, that certain real property described in Exhibit A, attached hereto and by this reference made a part hereof, be acquired by the City of Yuma, as such acquisition will be in the public interest of the City and would be of public benefit.

SECTION 2: That the City staff is hereby authorized and directed to acquire said real property by gift, easement or purchase and, in the event the City of Yuma, at its sole discretion, is unable to acquire said property upon satisfactory terms, the staff is hereby authorized and directed to perform all acts necessary to acquire title to and possession of said property under the power of eminent domain, for the City of Yuma.

SECTION 3: That the duly authorized disbursing officers of the City of Yuma are hereby authorized and directed to pay all sums necessary to acquire said property, together with recording fees, escrow, title insurance, closing and all other costs necessary in the acquisition of said property.

Adopted this ____ day of _____, 2011.

APPROVED:

Alan L. Krieger
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Steven W. Moore
City Attorney

Exhibit A

Parcels of land located within the Northwest Quarter of Section 35, Township 8 South, Range 23 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, said parcels being more particularly described as follows:

The West 20 feet of the South 410 feet of the West Half of Lot 9, Speese Subdivision of the Northwest Quarter of Section 35, according to the plat of record in the office of the County Recorder of Yuma County, Arizona, Book 1 of Plats, Page 20.

AND

The East 10 feet of the Engler Avenue road right-of-way adjacent to the South 410 feet of the West Half of Lot 9 as dedicated by the Speese Subdivision of the northwest Quarter of Section 35, according to the plat of record in the office of the County Recorder of Yuma County, Arizona, Book 1 of Plate, Page 20.



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

| | | |
|--|--|--|
| MEETING DATE: DEPARTMENT: DIVISION: | September 21, 2011 Police Administration | <input type="checkbox"/> Motion <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance - Introduction <input type="checkbox"/> Ordinance - Adoption <input type="checkbox"/> Public Hearing |
| TITLE: Yuma City Code Amendment: Animal Control Regulations Chapter 130, Section 110 | | |
| SUMMARY RECOMMENDATION: Amend the Yuma City Code, Chapter 130-110 to grant the City of Yuma Police Department all rights, duties, responsibilities and authorities to enforce animal control regulations. | | |
| REPORT: <p>On March 2, 2011, Ordinance No. O2011-03 was adopted, amending various provisions of the City of Yuma's animal control regulations and authorizing the designation of a city enforcement agent to enforce the provisions of the ordinance. Currently, the City of Yuma is contracting with the Humane Society of Yuma to provide Animal Control-related services within the City limits.</p> <p>Under the existing ordinance, the Yuma Police Department (YPD) does not enforce animal control regulations, except in specifically stated circumstances. The City of Yuma is in the process of creating an Animal Control Services Division. This division will be located in and operate within the authority of the YPD. This amendment to City Code section 130-110 will allow that authority to the YPD.</p> <p>This amendment does not preclude the City Council from appointing other city enforcement agents by contract, motion, or resolution.</p> | | |

| | | | | |
|-------------------------------|--|----------------------------|---|--------|
| 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 \$0.00 \$0.00 | FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: | |
| | TOTAL: | \$0.00 | | |
| | FISCAL IMPACT STATEMENT: | | | |
| ADDITIONAL INFORMATION | SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5. | | | |
| | IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office | | | |
| SIGNATURES | CITY ADMINISTRATOR: | | DATE: | |
| | Pat Wicks for Gregory K. Wilkinson | | 9/13/2011 | |
| | REVIEWED BY CITY ATTORNEY: | | DATE: | |
| | Richard W. Files for Steven W. Moore | | 9/13/2011 | |
| | RECOMMENDED BY (DEPT/DIV HEAD): | | DATE: | |
| Jerry Geier | | 8/31/2011 | | |
| WRITTEN/SUBMITTED BY: | | DATE: | | |
| Janet Udart for Randy Chapman | | 8/26/2011 | | |

ORDINANCE NO. O2011-34

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 130 SECTION 110 OF THE YUMA CITY CODE TO ALLOW THE YUMA POLICE DEPARTMENT TO ENFORCE CITY ANIMAL CONTROL REGULATIONS

WHEREAS, Chapter 130 of the City Code of the City of Yuma governs the keeping and care of animals and fowl within the City limits of the City of Yuma; and,

WHEREAS, Section 130 -110 of the City Code authorizes the City Council of the City of Yuma to delegate all rights, duties, responsibilities and authorities to enforce all provisions of this chapter to a city enforcement agent: and

WHEREAS, the City now desires to establish an Animal Control Services Division within the Yuma Police Department to enforce animal control regulations within the City; and

WHEREAS, the City Code does not allow the Yuma Police Department to enforce the Code, except in specifically stated circumstances; and

WHEREAS, there is a need to amend the City Code giving the Yuma Police Department the ability to enforce Animal Control Regulations.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: That the Yuma City Code Chapter 130-110, be amended to read:

All rights, duties, responsibilities and authorities to enforce this chapter shall be with the City of Yuma Police Department and to other city enforcement agents as may be delegated by the City Council by contract, or appointed by motion or resolution.

Adopted this _____ day of _____, 2011.

APPROVED:

Alan L. Krieger
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Steven W. Moore
City Attorney