



**CITY OF YUMA  
REGULAR CITY COUNCIL MEETING AGENDA  
COUNCIL CHAMBERS – YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
WEDNESDAY, NOVEMBER 19, 2014  
5:30 P.M.**

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**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**FINAL CALL** for submission of Speaker Request Forms for agenda related items.

**PRESENTATIONS**

- Recognition of services by Catholic Community Services

**I. MOTION CONSENT AGENDA**

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

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

- 8. 1. Regular City Council Meeting August 27, 2014
- 12. 2. City council Citizen's Forum September 30, 2014
- 13. 3. Regular Worksession September 30, 2014

B. Approval of Staff Recommendations:

**Page Item**

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)

**14. 2. Liquor License: Wal-Mart Neighborhood Market #7320**

Approve a Person/Location Transfer #9 Liquor Store, Liquor License application, submitted by Clare Hollie Abel, agent for Wal-Mart Stores, Inc. dba Wal-Mart Neighborhood Market #7320, located at 2545 West 8th Street, Yuma, Arizona. (LL14-24) (City Administration/City Clerk) (Lynda L. Bushong)

**16. 3. Liquor License: Wingstop**

Approve a New License #12 Restaurant, Liquor License application, submitted by Michael Dean Nelson, agent for West of PCH LLC dba Wingstop, located at 290 W. 32nd Street, Yuma, Arizona. (LL14-25) (City Administration/City Clerk) (Lynda L. Bushong)

**18. 4. Liquor License: A&R Beer Bar and Grill**

Approve a New License #12 Restaurant, Liquor License application, submitted by Rafael M. Arroyo, agent for A&R Beer Bar and Grill, located at 712 S. 4th Avenue, Yuma, Arizona. (LL14-26) (City Administration/City Clerk) (Lynda L. Bushong)

**20. 5. Liquor License: Val's Drive Thru Liquor**

Approve an Interim Permit/Person Transfer #9 Liquor Store, Liquor License application, submitted by Rivian Saad Nona, agent for Val's Drive Thru Liquor LLC dba Val's Drive Thru Liquor, located at 2500 W. 8th Street, Yuma, Arizona. (LL14-27) (City Administration/City Clerk) (Lynda L. Bushong)

**22. 6. Special Event Liquor License: Yuma Fine Arts Association - All Galleries Opening Reception**

Approve a Special Event Liquor License application submitted by David L. Woodward, on behalf of the Yuma Fine Arts Association, for the All Galleries Opening Reception. The reception will be held at the Yuma Art Center, located at 254 S. Main Street, on Friday, December 5, 2014 from 5:00 p.m. to 10:00 p.m. (SP14-28) (City Administration/City Clerk) (Lynda L. Bushong)

**24. 7. Cooperative Purchase Agreement: Energy Performance Contracts**

Authorize the City Administrator to negotiate and execute a 25-year contract to construct, install, operate and maintain a solar panel system at no cost to the City, as well as, negotiate and execute a guaranteed savings agreement and the proposed improvement agreement for the remaining 20 City facilities, as identified in the scope of work, by utilizing a cooperative purchase agreement with the State of Arizona and the following firm: Climatec, LLC, Phoenix, Arizona. (Administration) (Ricky Rinehart)

**SUGGESTED MOTION: To approve the MOTION CONSENT AGENDA as recommended:**

M/ \_\_\_\_\_ S/ \_\_\_\_\_ VV/ \_\_\_\_\_

**II. RESOLUTION CONSENT AGENDA**

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

**58. A. Resolution R2014-41 Public Record Declaration: NFPA 1 Fire Code 2012**

Authorize the declaration of a certain document titled NFPA 1 Fire Code 2012 (National Fire Protection Association 1 Fire Code 2012), a public record and order three copies to remain on file with the City Clerk. (Fire/Administration) (Steve Irr)

**61. B. Resolution R2014-43 Industrial Development Authority Charter School Revenue Bonds Series 2014**

Approve the Issuance of Charter School Revenue Bonds, Series 2014 (Juniper Tree Academy, dba Desert View Academy) of the Industrial Development Authority of the City of Yuma, Arizona. (City Attorney)

**SUGGESTED MOTION: To adopt the RESOLUTION CONSENT AGENDA as recommended:**

**M/** \_\_\_\_\_ **S/** \_\_\_\_\_ **RV/** \_\_\_\_\_

**III. ADOPTION OF ORDINANCES CONSENT AGENDA**

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

**66. A. Ordinance O2014-31 Rezoning of Property: Northwest corner of 32nd Street and Talon Avenue, Yuma, AZ.**

Rezone approximately 0.74 acres from the General Commercial/Aesthetic Overlay (B-2/AO) District to the General Commercial (B-2) District. The property is located at the northwest corner of 32nd Street and Talon Avenue, Yuma, AZ. (ZONE-7131-2014) (Community Development/Community Planning) (Laurie L. Lineberry)

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

**M/** \_\_\_\_\_ **S/** \_\_\_\_\_ **RV/** \_\_\_\_\_

#### **IV. 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.

**80. A. Ordinance O2014-32 Amendment to City Code: Chapter 193 Water and Sewers**

Amend City Code Section 193-67 to assess a delinquency fee, increase the reconnect fee, and increase the dishonored check fee. (Finance/Customer Services) (Pat Wicks)

**84. B. Ordinance O2014-33 Ordinance Amendment: Authorization of Transfer of Land to Arizona Department of Veteran's Services**

Amend ordinance authorizing conveyance of real property at the southeast corner of Avenue 6E and the 34th Street alignment to the State of Arizona, Department of Veterans' Services. (City Administration/Administration) (Ricky Rinehart)

**88. C. Ordinance O2014-34 Grant of Easement and Real Property Exchange: Yuma Elementary School District and JV Farms, Inc.**

Authorize the granting of a temporary (15 year) easement for school access, parking, pick-up and drop-off on City-owned real property (a remnant vacant lot and a portion of the adjacent alley to be vacated with a permanent utilities and access easement reserved to the City), and the subsequent exchange of of the described real property (subject to the easements) for necessary right-of-way owned by JV Farms, Inc., at the southwest corner of 16th Street and 7th Avenue. (City Administration/Administration) (Ricky Rinehart)

**V. PUBLIC HEARINGS & RELATED ACTIONS**

**97. A. Resolution R2014-42 Major General Plan Amendment: 5th Avenue and 16th Street**

Amend the City of Yuma General Plan to change the land use designation from Mixed Use and Low Density Residential to Commercial, for property located in proximity to the 5th Avenue and 16th Street intersection. The applicants are the Kenyons Market, Inc. and the City of Yuma (GP-6521-2014). (Community Development/Community Planning) (Laurie L. Lineberry)

**SUGGESTED MOTION: To close the pubic hearing.**

**M/\_\_\_\_\_ S/\_\_\_\_\_ VV/\_\_\_\_\_**

**SUGGESTED MOTION: To adopt Resolution R2014-42 as recommended.**

**M/\_\_\_\_\_ S/\_\_\_\_\_ RV/\_\_\_\_\_**

**FINAL CALL** for submission of Speaker Request Forms for Call to the Public.

**VI. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING**

Discussion and possible action on the following items:

1. Appointments:
  - Part-time Municipal Court Judge Pro Tem (3)
  
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 November 6, 2014 through November 19, 2014. 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.

## **VII. 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.

## **VIII. 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.

## **IX. EXECUTIVE SESSION**

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

1. Discussion, consultation with and/or instruction to legal counsel regarding the Authorization of Transfer of Land to Arizona Department of Veteran Services. (A.R.S. 38-431.03 A3, A4 and A7)
2. Discussion, consultation with and/or instruction to legal counsel regarding the Grant of Easement and Real Property Exchange: Yuma Elementary School District and JV Farms, Inc. (A.R.S. 38-431.03 A3, A4 and A7)

## **ADJOURNMENT**

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

**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS, YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**AUGUST 27, 2014**  
**5:30 p.m.**

**CALL TO ORDER**

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

**INVOCATION/PLEDGE**

**Richard O’Keefe**, Monsignor at Immaculate Conception Church, gave the invocation. **Joy Everett**, led the City Council in the Pledge of Allegiance.

**ROLL CALL**

Councilmembers Present: Wright, Knight, Beeson, McClendon, Thomas, Craft, and Mayor Nicholls  
Councilmembers Absent: none  
Staffmembers Present: City Administrator, Gregory K. Wilkinson  
Various Department Heads or their representative  
City Attorney, Steven W. Moore  
City Clerk, Lynda L. Bushong

**FINAL CALL**

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

**PRESENTATIONS – NONE**

**I. MOTION CONSENT AGENDA - NONE**

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)

**II. RESOLUTION CONSENT AGENDA - NONE**

**III. ADOPTION OF ORDINANCES CONSENT AGENDA**

**Ordinance O2014-20 Zoning Code Text Amendment: Mobile Food Vending**

Speaker

**Mary Ann Easterday**, 3359 S. 15<sup>th</sup> Avenue, encouraged City Council to make sure that the proposed ordinance is very detailed regarding what mobile food vendors will be allowed to do.

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

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

**Ordinance O2014-16**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, Appendix A: Cielo Verde Specific Plan, to remove some ambiguous wording, better organize the permitted uses, and ensure the zoning ordinance text better matches the associated subdivision plat and Development Agreements**

(Zoning Code Text Amendment: Appendix A: Cielo Verde Specific Plan ZONE-5373-2014)  
(CD/Planning)

**Ordinance O2014-20**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, relating to zoning regulations, to add definitions for mobile food vending operations, add provisions to allow mobile food vending, and providing penalties for violations thereof**

(Zoning Code Text Amendment: Mobile Food Vending) (CD/Planning)

Roll call vote: **adopted** 6-1; Wright voting Nay.

**IV. INTRODUCTION OF ORDINANCES**

**Motion** (Knight/McClendon): To clarify the conditions of rezoning, to amend Ordinance O2014-26, Section 2, Conditions 4 and 5 to read as follows:

4. The Owner shall provide a raised median covenant for Avenue C frontage and 16<sup>th</sup> Street frontage except two median breaks on 16<sup>th</sup> Street. A median access break will be provided at 37<sup>th</sup> Avenue and 16<sup>th</sup> Street with full turning movements. A second median access break will be provided at the alignment with the west most driveway on Assessor's Parcel Number 664-25-131, located on the north side of 16<sup>th</sup> Street, with ingress and egress turning movements as approved by the City Traffic Engineer.
5. The Owner shall dedicate Avenue C, the corner visibility triangle, and 16<sup>th</sup> Street rights-of-way along the real property described in Section 1, in its entirety and in conformance with the roadways plan in effect at the time of dedication. The dedication shall be by plat or warranty deed.

Voice vote: **approved** 7-0.

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

**Ordinance O2014-26**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, rezoning certain property hereinbefore located in the Agriculture (AG) District to the Low Density Residential (R-1-6) District and amending the zoning map to conform thereto**

(Rezoning of Property: Southeast corner of Avenue C and 16<sup>th</sup> Street, Yuma, AZ ZONE-6465-2014)  
(CD/Planning)

**V. PUBLIC HEARINGS - NONE**

**FINAL CALL**

**Mayor Nicholls** made a final call for the submission of Speaker Request Forms from members of the audience for the Call to the Public agenda item.

**VI. ANNOUNCEMENTS AND SCHEDULING**

Announcements

City Council reported on the following events:

**Thomas**

- August 14, 2014: Attended the “Good Morning Yuma” show
- August 19, 2014: Attended the Catholic Community Services meeting
- August 27, 2014: Attended the Take Pride award ceremony for City staff

**Beeson** stated that the week at the Arizona League of Cities and Towns was very productive. It was an excellent opportunity to network and work with other partners and Yuma County.

**McClendon**

- August 27, 2014: Attended the Take Pride award ceremony for City staff

**Mayor Nicholls**

- August 27, 2014: Attended the Take Pride award ceremony for City staff

Scheduling

**Wright** requested that an Agenda Item regarding strategies to promote teamwork through United for Yuma be placed on a future City Council Worksession. **Mayor Nicholls** requested staff provide an update on the status of United for Yuma campaign and strategies on the way City Council can move forward.

**VII. SUMMARY OF CURRENT EVENTS**

**Wilkinson** thanked the Employee Support for Guard and Reserve for assisting in the recognition of all the reservist employed by the City of Yuma.

**Wilkinson** announced the following upcoming events:

- August 30, 2014: Annual Woof Splash at Kennedy Pool
- August 30, 2014: Yuma Territorial Gun Show at the Yuma Civic Center

**VIII. NOTIFICATION TO MAYOR AND COUNCIL**

As required by the Yuma City Charter Article V, Section 1(C), as the City Clerk, **Bushong** gave notification to the Yuma City Council that valid petitions for Referendum REF2014-02 have been filed with the City Clerk. Pursuant to the Arizona Revised Statutes, a review of the petitions was conducted by the City Clerk and the County Recorder. After the review I have certified that the number of remaining signatures for REF2014-02 exceeds the minimum required by the constitution to place a measure on the General Election ballot. The number of valid signatures filed with this petition based on the random sample appears to be at least 105% of the minimum required. Also provided for under Article V of the Yuma City Charter the City Council has 50 days from the Clerk's notification to either repeal Ordinance O2014-15 pertaining to the zoning reversion at 2545 W. 8<sup>th</sup> Street or submit the Ordinance to the electors of the City at the next General or Special Election called for that purpose.

**IX. CALL TO THE PUBLIC**

**Mary Ann Easterday**, 3359 S. 15<sup>th</sup> Avenue, thanked City Council for moving forward with the City's recycling program.

**IX. EXECUTIVE SESSION/ADJOURNMENT**

There being no further business, **Mayor Nicholls** adjourned the meeting at 6:02 p.m. No Executive Session was held.

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

APPROVED:

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

**MINUTES**  
**CITY COUNCIL CITIZEN'S FORUM**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS - YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**September 30, 2014**  
**5:30 p.m.**

**CALL TO ORDER**

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

Councilmembers Present: Wright, Knight, Beeson, Thomas,  
Councilmembers Absent: McClendon, Craft, Mayor Nicholls  
Staffmembers Present: City Administrator, Gregory K. Wilkinson  
Various department heads or their representatives  
City Attorney, Steven W. Moore  
City Clerk, Lynda Bushong

**I.** There were no speakers scheduled at this time.

**II. ADJOURNMENT/EXECUTIVE SESSION**

**Motion** (Thomas/Knight): To adjourn the meeting to Executive Session. Voice vote: approved 4-0.  
The meeting adjourned to Executive Session at 5:31 p.m.

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

APPROVED:

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

**MINUTES**  
**REGULAR WORKSESSION**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**September 30, 2014**  
**6:00 p.m.**

**CALL TO ORDER**

**Deputy Mayor Beeson** called the Regular City Council Worksession to order at 6:00 p.m.

Councilmembers Present: Wright, Knight, Beeson, Thomas,  
Councilmembers Absent: McClendon, Craft and Mayor Nicholls  
Staffmembers Present: City Administrator, Gregory K. Wilkinson  
Various department heads or their representatives  
City Attorney, Steven W. Moore  
City Clerk, Lynda Bushong

**I. REGULAR CITY COUNCIL MEETING AGENDA OF OCTOBER 1, 2014 - NONE**

**II. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION - NONE**

**III. ADJOURNMENT/EXECUTIVE SESSION**

There being no further business, **Deputy Mayor Beeson** adjourned the meeting at 6:01 p.m. No Executive Session was held.

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Lynda L. Bushong, City Clerk

APPROVED:

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Douglas J. Nicholls, Mayor



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** City Administration

**DIVISION:** City Clerk

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

**TITLE:**  
Liquor License: Wal-Mart Neighborhood Market #7320

**SUMMARY RECOMMENDATION:**  
Approve a Person/Location Transfer #9 Liquor Store, Liquor License application, submitted by Clare Hollie Abel, agent for Wal-Mart Stores, Inc. dba Wal-Mart Neighborhood Market #7320, located at 2545 West 8<sup>th</sup> Street, Yuma, Arizona. (LL14-24)

**REPORT:**  
Clare Hollie Abel, agent for Wal-Mart Stores, Inc. dba Wal-Mart Neighborhood Market #7320, located at 2545 West 8<sup>th</sup> Street, Yuma, Arizona, has applied for a Person/Location Transfer of a #9 Liquor Store Liquor License. The License is being transferred from Donald Sigurd Olsen, agent for Olsens Marketplace IGA at Wellton.

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. Person/Location Transfer #9 Liq Store 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 checked="" type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		11/12/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files for Steven W. Moore		11/12/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Lynda L. Bushong		11/3/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Jasmin Rodriguez		10/31/2014		



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** City Administration

**DIVISION:** City Clerk

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

**TITLE:**  
Liquor License: Wingstop

**SUMMARY RECOMMENDATION:**

Approve a New License #12 Restaurant, Liquor License application, submitted by Michael Dean Nelson, agent for West of PCH LLC dba Wingstop, located at 290 W. 32<sup>nd</sup> Street, Yuma, Arizona. (LL14-25)

**REPORT:**

Michael Dean Nelson, agent for West of PCH LLC dba Wingstop, located at 290 W. 32<sup>nd</sup> Street, Yuma, Arizona, has applied for a New License #12 Restaurant 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. New License #12 Restaurant 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 checked="" type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		11/12/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files for Steven W. Moore		11/12/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Lynda L. Bushong		11/3/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Jasmin Rodriguez		11/3/2014		



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** City Administration

**DIVISION:** City Clerk

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

**TITLE:**  
Liquor License: A&R Beer Bar and Grill

**SUMMARY RECOMMENDATION:**  
Approve a New License #12 Restaurant, Liquor License application, submitted by Rafael M. Arroyo, agent for A&R Beer Bar and Grill, located at 712 S. 4<sup>th</sup> Avenue, Yuma, Arizona. (LL14-26)

**REPORT:**  
Rafael M. Arroyo, agent for A&R Beer Bar and Grill, located at 712 S. 4<sup>th</sup> Avenue, Yuma, Arizona, has applied for a New License #12 Restaurant 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. New License #12 Restaurant 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 checked="" type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		11/12/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files for Steven W. Moore		11/12/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Lynda L. Bushong		11/3/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Jasmin Rodriguez		11/3/2014		



City of YUMA

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- Public Hearing

**TITLE:**  
 Liquor License: Val's Drive Thru Liquor

**SUMMARY RECOMMENDATION:**

Approve an Interim Permit/Person Transfer #9 Liquor Store, Liquor License application, submitted by Rivan Saad Nona, agent for Val's Drive Thru Liquor LLC dba Val's Drive Thru Liquor, located at 2500 W. 8<sup>th</sup> Street, Yuma, Arizona. (LL14-27)

**REPORT:**

Rivan Saad Nona, agent for Val's Drive Thru Liquor LLC dba Val's Drive Thru Liquor, located at 2500 West 8<sup>th</sup> Street, Yuma, Arizona, has applied for an Interim Permit/Person Transfer of a #9 Liquor Store Liquor License. The License is being transferred from Vallee Boyed Poland, agent for Val's Drive-in Liquor, Inc.

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/Person Transfer #9 Liq Store 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 checked="" type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		11/12/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files for Steven W. Moore		11/12/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Lynda L. Bushong		11/3/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Jasmin Rodriguez		11/3/2014		



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** City Administration

**DIVISION:** City Clerk

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

**TITLE:**  
Special Event Liquor License: Yuma Fine Arts Association - All Galleries Opening Reception

**SUMMARY RECOMMENDATION:**

Approve a Special Event Liquor License application submitted by David L. Woodward, on behalf of the Yuma Fine Arts Association, for the All Galleries Opening Reception. The reception will be held at the Yuma Art Center, located at 254 S. Main Street, on Friday, December 5, 2014 from 5:00 p.m. to 10:00 p.m. (SP14-28)

**REPORT:**

David L. Woodward, on behalf of the Yuma Fine Arts Association, has applied for a Special Event Liquor License for the All Galleries Opening Reception. The reception will be held at the Yuma Art Center, located at 254 S. Main Street, on Friday, December 5, 2014 from 5:00 p.m. to 10:00 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 on the date and times listed above.

The application has been sent to Community Development, the Police Department, the Fire Department, Risk Management, City Engineering (Traffic), and Parks and Recreation for 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 checked="" type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		11/12/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files for Steven W. Moore		11/12/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Lynda L. Bushong		11/3/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Jasmin Rodriguez		11/3/2014		



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** Administration

**DIVISION:**

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

**TITLE:**  
Cooperative Purchase Agreement: Energy Performance Contracts

**SUMMARY RECOMMENDATION:**

Authorize the City Administrator to negotiate and execute a 25-year contract to construct, install, operate and maintain a solar panel system at no cost to the City, as well as, negotiate and execute a guaranteed savings agreement and the proposed improvement agreement for the remaining 20 City facilities, as identified in the scope of work, by utilizing a cooperative purchase agreement with the State of Arizona and the following firm: Climatec, LLC, Phoenix, Arizona.

**REPORT:**

The cooperative purchase agreement would authorize the execution of a 25-year Solar Services Agreement (SSA) between the City and Climatec, LLC (Provider). Under the SSA, the Provider will design, construct, install, operate and maintain a solar power panel system (System), at no cost to the City, in the City Hall employee parking lot. The solar electric power generated from the System would be consumed at City Hall. The City will pay the Provider \$0.1386/kWh for the solar electric power delivered to City Hall from the System based on the attached schedules. The Provider will receive any tax benefits credits associated with the System.

The SSA also gives the City, at the City's sole discretion, the option to purchase the System from the Provider at the 15<sup>th</sup> anniversary of the system's operation date and at the expiration of the contract.

Staff requests authorization to utilize the cooperative purchase agreement originated by the State of Arizona with Climatec, LLC, to design, construct, install, operate and maintain a solar power panel system in the City Hall employee parking lot. All work under this agreement will be accomplished in accordance with the SSA between the City and the Provider.

The City is also in the process of negotiating additional agreements with the Provider to upgrade the energy efficiency of over 20 City-owned facilities. The proposed upgrades include, among other things, installing high efficiency HVAC units, upgrading interior and exterior lighting, and installing a building automation system. These proposed upgrades will result in City energy savings over the next 15 years. Staff will also continue negotiating future agreements with the Provider relating to these projects.

By approving this motion, City Council authorizes and directs the City Administrator to execute a fully-negotiated contract with Climatec L.L.C and directs the City Administrator and/or City Administrator's designee to implement the attached SSA's terms.

Approval of this motion also authorizes the City Administrator to negotiate and execute with Climatec LLC the guaranteed savings agreement and the proposed improvement agreement for the remaining 20 City facilities, as identified in the scope of work.

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: The full expense of construction and maintaining this project will be born by the selected Provider.			
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 checked="" type="checkbox"/> City Clerk's Office			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		11/12/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files for Steven W. Moore		11/12/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Ricky Rinehart		11/6/2014		
WRITTEN/SUBMITTED BY:			DATE:	

## SOLAR SERVICES AGREEMENT

THIS SOLAR SERVICES AGREEMENT (this “SSA” or “Agreement”) is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), by and between Climatec LLC, an [Arizona] limited liability company (“Provider”) and City of Yuma (“Recipient”). Provider and Recipient are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, in connection with this Agreement, Provider shall, with Recipient’s cooperation, design, construct, install, maintain, finance and operate the System, as more particularly described in Exhibit B hereto.

WHEREAS, Provider desires to provide to Recipient, and Recipient desires to purchase from Provider, all of the Solar Services, during the Term in accordance with the terms and conditions of this SSA.

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

### ARTICLE I DEFINED TERMS; RULES OF INTERPRETATION

1.1 Defined Terms. Capitalized terms, not otherwise defined in the body of the SSA, shall have the meanings ascribed to them in Exhibit C attached hereto.

1.2 Rules of Interpretation. The Rules of Interpretation contained in Exhibit C attached hereto shall apply to this SSA unless expressly provided otherwise in the body hereof.

### ARTICLE II TERM

2.1 Term. This SSA shall be effective and enforceable as of the Effective Date and shall terminate on the 25th anniversary of the Commercial Operation Date (the “Term”).

2.2 Conditions Precedent to Provider’s Obligations. The obligations of the Provider under this SSA are expressly conditioned upon the satisfaction in full (or written waiver) of all of the following conditions:

(a) Recipient shall have received evidence reasonably satisfactory to it that interconnection services will be available with respect to the energy generated by the System;

(b) Provider shall have secured project or other financing to finance the cost of installation of the System and perform the other Solar Services, on terms satisfactory to Provider in its sole discretion;

(c) The Provider shall have obtained all necessary permits, licenses and other approvals required by Applicable Law to design, construct and operate the System; and

(d) The Provider shall have confirmed to its satisfaction that site conditions (including environmental conditions, other encumbrances on the land) do not exist that were not known by Provider as of the Effective Date that could reasonably be expected to materially increase the cost of the Installation Work or the cost of providing Solar Services hereunder.

If any one of the conditions precedent above is not satisfied within twelve (12) months of the Effective Date, Provider may terminate this Agreement without penalty and without triggering the default provisions of Article 9 or incurring any liability under this Agreement whatsoever.

2.3 Conditions Precedent to Recipient's Obligations; Early Termination. In the event that Provider has not commenced Installation Work within twelve (12) months of the Effective Date for reasons other than a breach by Recipient of its obligations hereunder, Recipient may terminate this Agreement without penalty and without triggering the default provisions of Article 9 or incurring any liability under this Agreement whatsoever.

2.4 Notice of Commercial Operation. Provider shall notify Recipient when the System is capable of Commercial Operation, and shall in such Notice specify to Recipient the Commercial Operation Date.

2.5 Removal of System at End of Term. Except as otherwise provided herein, Provider shall remove, within ninety (90) days following the end of the Term and at Provider's sole cost and expense, the System from the Premises. Provider and its agents, consultants, and representatives shall have access at all reasonable times to the Premises and the System for purposes of such removal. The Provider shall repair any and all damage caused by Provider and its agents in connection with the removal of the System. Removal at the end of the Term or upon Termination shall include removal of all wiring, panels, inverters, meters and equipment related to the solar system. Provider shall not remove any shade structure. Provider shall not be obligated to remove underground conduits, wiring or footings.

### ARTICLE III PURCHASE AND SALE; DELIVERY; GOVERNMENTAL CHARGES

3.1 Purchase and Sale of Solar Services. Subject to the terms and conditions hereunder, Recipient engages Provider to provide the Solar Services to Recipient and Provider agrees to provide the Solar Services to Recipient. Commencing on the Commercial Operation Date and continuing throughout the remainder of the Term,

Provider shall make available to Recipient, and Recipient shall take delivery of, at the Delivery Point, all of the Energy Output (100%) produced by the System. Provider estimates in good faith that the annual Energy Output of the System shall be as set forth in Exhibit B.

3.2 Price. Recipient shall pay Provider for the Solar Services at the applicable Solar Services Payment Rate as set forth on Exhibit D. While the Solar Services are calculated and billed on the basis of KWh of Energy as set forth in Exhibit D, Recipient acknowledges and agrees that such Solar Services represent a package of services as reflected in the definition of “Solar Services” in Exhibit C.

3.3 Test Energy. Prior to the Commercial Operation Date, Recipient shall have the right, upon request, to have its representatives present during the testing process. Such representatives shall be subject to the reasonable written rules and procedures as may be established by Provider. Recipient shall pay Provider during the testing phase at a rate equal to the Solar Services Payment Rate that would otherwise be applicable on the Commercial Operation Date.

3.4 Title and Risk of Loss. Title to and risk of loss of the Energy Output will pass from Provider to Recipient at the Delivery Point and Recipient will be deemed to be in exclusive control of the Energy at and from the Delivery Point.

3.5 Governmental Charges.

(a) Recipient shall be responsible for and pay all Governmental Charges imposed directly on it or imposed directly on Provider in connection with or relating to the Parties’ duties under this Agreement, whether imposed before, upon or after the delivery of Energy Output to Recipient at the Delivery Point.

(b) Both Parties shall use reasonable efforts to administer this SSA and implement its provisions so as to minimize Governmental Charges. Provider may invoice Recipient for the Governmental Charges described in Section 3.5(a).

3.6 Outages.

(a) Recipient shall be permitted one (1) offline period (each an “Authorized Offline Period”) each calendar year during which period Recipient shall not be obligated to accept or pay for Solar Services; provided, however, that Recipient shall provide Provider not less than ten (10) Business Days prior Notice of any such Authorized Offline Period and shall use commercially reasonable efforts to schedule and coordinate such Authorized Offline Period(s) with Provider so as to minimize the loss of Energy Output. An Authorized Offline Period shall not exceed twenty four (24) hours. If, for reasons other than a Force Majeure or an Authorized Offline Period, Recipient causes, directly or indirectly, the temporary suspension or shutdown of the System or the cessation or reduction in the Energy that Provider would have otherwise delivered to the Delivery Point (an “Unauthorized Shutdown”) then Recipient shall pay “in lieu” fees to Provider (“Temporary Shutdown Fees”) equal to the product of (x) the difference between the Expected Monthly Output (reduced on a pro rata hourly basis for the

number of hours in any Authorized Offline Period) for the month in which such Unauthorized Shutdown occurred and its actual Energy Output and (y) the applicable Solar Services Payment Rate. The calculation of any Temporary Shutdown Fees shall also include the value of any lost payments or forced refunds associated with the Environmental Attributes, caused by or attributable to the Unauthorized Shutdown. Provider shall provide and justify data that reasonably demonstrates the approximate loss of Energy Output that occurred due to the Unauthorized Shutdown.

(b) Notwithstanding anything to the contrary herein, Provider shall be entitled to suspend delivery of Energy to the Premises for the purpose of maintaining and repairing any System and such suspension of service by Provider shall not constitute a breach of this SSA or an Unauthorized Shutdown, provided that Provider shall use commercially reasonable efforts to minimize any interruption in Solar Services being provided to the Recipient.

#### ARTICLE IV ENVIRONMENTAL ATTRIBUTES

4.1 Title to Environmental Attributes. Notwithstanding the purchase and sale of Solar Services pursuant to Section 3.1, Provider owns all rights, titles, and interests in and to any and all Environmental Attributes that relate to the Energy Output during the Term. Recipient shall execute such instruments as may reasonably be requested by Provider to give effect to this Section 4.1.

#### ARTICLE V CONSTRUCTION AND INSTALLATION OF THE SYSTEM

5.1 Installation. Subject to Section 5.2, Provider will cause the System to be designed, engineered, installed and constructed substantially in accordance with the terms of this Agreement, and Applicable Law. Recipient shall be given the opportunity to review and approve all construction plans, such review and approval not to be unreasonably withheld or delayed. If Recipient fails to approve or reject such construction plans within five (5) Business Days of receipt, such plans shall be deemed to be approved by Recipient. Provider shall procure all materials and equipment for the installation of the System and maintain the same at the Premises. Provider shall perform the installation of the System in a manner that minimizes inconvenience to and interference with Recipient. Provider may use contractors and subcontractors to perform its obligations under this Agreement. Provider shall continue to be responsible for the quality of the work performed by its contractors and subcontractors.

5.2 Contractors and Suppliers. Provider shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Provider under this Agreement and shall keep the Premises free and clear of any liens related to such charges. Provider shall indemnify Recipient for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Premises in connection with such charges; provided, however, that Provider shall have the right to contest any such lien so long as it provides a statutory bond or other reasonable

assurances of payment that either remove such lien from title to the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Premises.

5.3 Utility Approvals. Provider shall be responsible for and bear all costs associated with applying for and obtaining all permits, licenses and approvals required for the installation, operation, and maintenance of the System. Notwithstanding the foregoing, Recipient agrees to assist Provider in obtaining all necessary permits, licenses and approvals in connection with the installation, operation and maintenance of the System, including but not limited to the preparation of applications for interconnection of the System with the Electric Utility Provider and applications for the resale of excess power to the Electric Utility Provider.

5.4 Energy Delivery. Provider may commence delivering Energy upon the Commercial Operation Date, provided that Recipient is under no obligation to accept Energy delivered to the Premises unless and until the following have occurred:

(a) Provider shall have obtained, and provided Recipient satisfactory evidence with respect to, insurance coverage for the System consistent with the terms and conditions hereof; and

(b) Provider shall have provided Notice to Recipient that the Commercial Operate Date has occurred.

## ARTICLE VI OWNERSHIP; MAINTENANCE OF SYSTEM

6.1 Ownership of System by Provider. Provider or its financing party (in the case of a sale/leaseback financing) shall own the System, and shall be entitled to own, claim and retain any and all Tax Benefits. Recipient acknowledges that Provider or its assignee will be seeking to obtain the receipt of Tax Benefits, and Recipient agrees to cooperate with Provider in any reasonable manner requested by Provider with respect to pursuing such items. Recipient expressly disclaims any rights, interest or title to federal, state or local tax, grants or subsidies associated with the System or any other rights, titles and interests associated with ownership of the System.

6.2 Maintenance and Operation of System by Provider. Provider, at its own cost, shall operate and maintain the System in good condition and repair. Operation and maintenance activities shall be carried out in such a manner as to cause minimum interference with Recipient's activities and the activities of Recipient's tenants.

## ARTICLE VII METERING DEVICE AND METERING

7.1 Metering Equipment. Provider shall provide, install, own, operate and maintain a Metering Device for the System.

7.2 Testing, Correction, and Recipient's Right to Conduct Tests. Provider shall test the Metering Device at least once every two years. Recipient and its consultants and representatives shall have the right to witness any Metering Device test to verify the accuracy of the measurements and recordings of the Metering Device. If there is an electric metering error of less than or equal to 2%, no billing adjustments will be made. In the event there is an error of greater than 2%, Provider shall adjust the next invoice to be provided to Recipient, to either charge the Recipient additional amounts for energy produced over the stated meter amount during the applicable period at the applicable rate or provide Recipient a credit against future billing for energy produced under the stated meter amount during the applicable period.

## ARTICLE VIII

### LOSS, DAMAGE OR DESTRUCTION OF SYSTEM; INSURANCE; FORCE MAJEURE

8.1 System Loss. Subject to Section 12.1 of this Agreement, Provider shall bear the risk of any System Loss.

(a) In the event of any System Loss that, in the reasonable judgment of Provider, results in less than total damage, destruction or loss of the System, this SSA will remain in full force and effect and Provider shall have option, at Provider's absolute and sole discretion and sole cost and expense, to repair or replace the System. Provider shall be entitled to all proceeds of insurance with respect to the System.

(b) In the event of any System Loss that, in the reasonable judgment of Provider, results in total damage, destruction or loss of the System, Provider shall, within twenty (20) Business Days following the occurrence of such System Loss, notify Recipient whether Provider is willing, notwithstanding such System Loss, to repair or replace the System. In the event that Provider notifies Recipient that Provider does not elect to repair or replace the System, this SSA will terminate automatically effective upon the delivery of such Notice, and Provider shall be entitled to all proceeds of insurance with respect to the System.

### 8.2 Insurance.

(a) Provider shall maintain without interruption insurance policies of the types and in the amounts and for the duration set forth in Exhibit F hereto.

(b) Recipient shall maintain without interruption insurance policies of the types and in the amounts and for the duration set forth in Exhibit G hereto.

(c) If requested by the other Party, each Party shall furnish the other Party certification of insurance reasonably acceptable to such other Party prior to the date on which such insurance is required pursuant to Exhibit F or Exhibit G, as applicable.

8.3 Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this SSA and such Party (the "Claiming Party") gives Notice to the other Party as soon as

practicable (and in any event within five (5) Business Days after the Force Majeure first prevents performance by the Claiming Party), such Notice to include the details of the Force Majeure and the steps the Claiming Party is taking to mitigate the effects thereof, then the Claiming Party will be excused from the performance of its obligations under this SSA (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure, and except as otherwise provided in Section 8.1). The Claiming Party will use commercially reasonable efforts to mitigate, eliminate or avoid the effects of the Force Majeure and resume performing its obligations. Except as otherwise provided in Section 8.1, the non-Claiming Party will not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

8.4 Recipient's Covenants. As a material inducement to Provider's execution of this SSA, Recipient covenants and agrees as follows:

(a) Site Access. Recipient shall provide Provider with access, at all times, to the Premises to allow Provider to perform the Solar Services as contemplated herein, including ingress and egress rights to the Premises for Provider and its employees, contractors and sub-contractors and access to solar panels and conduits to interconnect the System with the Recipient's electrical systems. Recipient shall use commercially reasonable efforts to provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of the System and access for rigging and material handling. Recipient and its authorized representatives shall at all times have access to and the right to observe the construction of the System and other Solar Services, subject to compliance with Recipient's safety rules, but shall not interfere with Solar Services or handle any Provider's equipment or the System without written authorization from Provider. In the event that this Agreement is terminated as a consequence of an Event of Default (as defined in Section 9.1) by Recipient, this Section 8.4(a) shall survive such termination for the then-remaining balance of the Term, and Provider may (but shall not be required) to keep the System at the Premises provided that it continues to operate and maintains the System in accordance with prudent industry practice.

(b) Security. Recipient agrees that its normal security measures, practices, and policies which apply to the Premises shall also apply to the System.

(c) Damages. Recipient shall promptly notify Provider of any matters it is aware of pertaining to any damage to or loss of the use of any System or that could reasonably be expected to adversely affect the System.

(d) Liens. Recipient shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the System or any interest therein. If Recipient breaches its covenant under this Section 8.4(d), it shall immediately notify Provider in writing,

shall promptly cause such Lien to be discharged and released of record without cost to Provider, and shall indemnify Provider against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(f) Maintenance of Interconnection. Recipient shall ensure that the Premises and the System shall remain interconnected to the electrical grid during the entire Term, except as specifically permitted under this Agreement. Recipient and its agents or representatives shall not interfere with the operation of the System, other than in circumstances where the continued operation of the System would pose an imminent threat of bodily injury or property damage.

(g) Recipient Maintenance Removal. If for any reason Recipient determines that all or a portion of the System must be removed from the site for maintenance of the site or any appurtenances thereto at any time during the term of this Agreement then such removal of the system ("Recipient Maintenance Removal") will be governed by the provisions of Section 3.6 of this Agreement unless modified in this section. Recipient shall provide Provider no less than thirty (30) days Notice of any Recipient Maintenance Removal and shall use commercially reasonable efforts to schedule and coordinate any Recipient Maintenance Removal with Provider so as to minimize the loss of Energy Output. Recipient shall not engage any party other than Provider to perform any Recipient Maintenance Removal without the express written consent of Provider. All of the costs of any Recipient Maintenance Removal and re-installation are the sole responsibility of the Recipient.

## ARTICLE IX EVENTS OF DEFAULT; REMEDIES

9.1 Events of Default. An "Event of Default" means, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

(a) the failure to make, when due, any payment required under this SSA if such failure is not remedied within five (5) Business Days;

(b) the failure to perform any material covenant or obligation set forth in this SSA (except to the extent constituting a separate Event of Default), if such failure is not remedied within sixty (60) days after receipt of Notice; provided, however, that if such material covenant or obligation may be cured, but not within such sixty (60) day period, and the Defaulting Party has commenced curing such default and is at all times diligently pursuing the cure thereof, such further period as may be necessary to effect such cure shall be provided for hereunder;

(c) such Party (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (ii) admits in writing its inability to make, when due, any payment required under this SSA within five (5) Business Days of the due date; (iii) makes a general assignment for the benefit of its creditors; (iv) commences a voluntary

case under any bankruptcy law; (v) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (vi) acquiesces in, or fails to contest in a timely manner, any petition filed against it in an involuntary case under bankruptcy law or seeking to dissolve it under other Applicable Law; or (vii) takes any action authorizing its dissolution;

(d) such Party fails to provide or maintain in full force and effect any required insurance coverage, if such failure is not remedied within ten (10) Business Days after receipt of Notice from the Non-Defaulting Party to the Defaulting Party; or

(e) Recipient fails to provide access to the System as set forth in Section 8.4(a).

9.2 Remedies for Event of Default. If an Event of Default has occurred (and has not been cured if provided for under Section 9.1), the non-defaulting Party (the “Non-Defaulting Party”) will, without limiting any other rights or remedies available to the Non-Defaulting Party under this SSA or Applicable Law, have the right:

(a) by Notice to the Defaulting Party, to designate a date of early termination of this SSA (“Early Termination Date”), with such Early Termination Date to occur no earlier than five (5) Business Days from the date of such Notice, other than in the case of an Event of Default under Section 9.1(c), in which case the termination may be immediate;

(b) to withhold any payments due to the Defaulting Party with respect to obligations performed from and after the date that an Event of Default has occurred; and

(c) to suspend any of its performance or obligations under this SSA (other than payments due to Defaulting Party for obligations performed prior to the date of an Event of Default).

In the event that the Non-Defaulting Party designates an Early Termination Date pursuant to Section 9.2(a) above, this SSA will terminate as of the Early Termination Date. The Parties hereby agree an Event of Default will not automatically terminate this SSA absent a Non-Defaulting Party Notice of such Party’s intention to set an Early Termination Date.

9.3 Recipient Rights Upon Termination for Default. In the event that Recipient is the Non-Defaulting Party, and Recipient elects to terminate this SSA as provided in Section 9.2 above, Recipient shall be entitled, in its sole and absolute discretion, either to:

(a) require that Provider remove the System (or to remove the System if Provider fails to remove the System within thirty (30) Business Days after the Early Termination Date, in which case the Recipient must use commercially reasonable efforts to store the System with due care and Provider is obligated to reimburse

Recipient for all reasonable costs and expenses related to removing and/or storing the System), or

- (b) exercise the Purchase Option provided in Section 13.1; or
- (c) exercise such other remedies available to it under Applicable Law.

9.4 Provider Rights Upon Termination for Default. In the event that Provider is the Non-Defaulting Party, and that Provider elects to terminate this SSA as provided in Section 9.2, Provider will be entitled to, in its sole and absolute discretion terminate the Agreement and receive payment from the Recipient in an amount equal to the greater of (i) the applicable Termination Payment for the System, as reflected in Exhibit E, or (ii) the Fair Market Value of the System Assets on the date of such demand by Provider, with such payment to be made immediately by Recipient upon demand by Provider in readily available funds

9.5 Remedies Cumulative. The rights and remedies contained in this Article 9 are cumulative with the other rights and remedies available under this SSA or at law or in equity and an election of remedy provided in either Section 9.3 or Section 9.4 does not prevent the Non-Defaulting Party from seeking any other damages and remedies at law or in equity.

## ARTICLE X INVOICING AND PAYMENT

10.1 Invoicing and Payment. Billing shall be conducted consistent with Provider's usual and customary practices, as may change from time to time, but no more frequently than monthly in arrears. All invoices under this SSA will be due and payable no later than thirty (30) days after receipt of the applicable invoice ("Due Date"). Recipient shall make payment by mutually agreeable methods. Any amounts not paid by the applicable Due Date will accrue interest at the Interest Rate until paid in full.

10.2 Disputed Amounts. Recipient may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) under this SSA at any time within fifteen (15) days following the delivery of the invoice (or invoice adjustment). In the event that Recipient disputes any invoice or invoice adjustment, Recipient will nonetheless be required to pay the undisputed portion the applicable invoice on the applicable payment Due Date, and to give Notice of the objection to the Provider. If Provider notifies Recipient in writing within fifteen (15) days of receipt of such Notice that Provider disagrees with the allegation of error in the invoice, the Parties shall meet, by telephone conference call or otherwise, for the purpose of attempting to resolve the dispute. If the Parties are unable to resolve the dispute within thirty (30) days after such initial meeting, such dispute may be resolved through litigation.

ARTICLE XI  
REPRESENTATIONS AND WARRANTIES; RECIPIENT ACKNOWLEDGEMENT

11.1 Representations and Warranties. Each Party represents and warrants to the other Party that:

(a) the execution, delivery and performance of this SSA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in (i) its governing documents, (ii) material contracts to which it is a party or (iii) to such Party's knowledge, any law, rule, regulation, order or the like applicable to it;

(b) subject to all conditions precedent described herein, this SSA and each other document executed and delivered in accordance with this SSA constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies); and

(c) it (i) understands and accepts, the terms, conditions and risks of this SSA, (ii) is not relying upon the advice or recommendations of the other Party in entering into this SSA and agrees that the other Party is not acting as a fiduciary for or an adviser to it or its Affiliates and (iii) has been advised by its own independent legal counsel in connection with the negotiation of this SSA.

11.2 Acknowledgements Regarding Bankruptcy Code. The Parties acknowledge and agree that the transactions contemplated under this Agreement constitute a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

ARTICLE XII  
INDEMNITY; LIMITATIONS

12.1 Indemnity. To the extent allowable by law, each Party (the "Indemnitor") hereby indemnifies and agrees to defend and hold harmless the other Party (the "Indemnitee") from and against any and all third party claims, to the extent arising from injury to persons or property caused by negligence, or any material breach of this SSA, by the Indemnitor or any of its directors, officers, employees or agents; provided, however, that the Indemnitor will not have any obligation to indemnify the Indemnitee from or against any losses, liabilities, damages, costs, expenses, and attorneys' fee, to the extent caused by, resulting from, relating to or arising out of the negligence or intentional misconduct of the Indemnitee or any of its directors, officers, employees or agents.

12.2 No Consequential Damages. Nothing in this SSA is intended to cause either Party to be, and neither Party shall be, liable to the other Party for any lost business, lost profits or revenues from others or other special or consequential damages, all claims for which are hereby irrevocably waived by the Parties.

Notwithstanding the foregoing, neither the payments for the provision of Solar Services, any Temporary Shutdown Fees, Terminations Payment or other specified payment required by this Agreement, shall be deemed consequential damages.

### ARTICLE XIII SYSTEM PURCHASE AND SALE OPTIONS

13.1 Grant of Purchase Option. Recipient may elect to purchase the System Assets (the "Purchase Option") at the end of the fifteenth (15)<sup>th</sup> anniversary of the Commercial Operation Date, and on the expiration of the Term (the "Purchase Option Date"), provided that an Event of Default of Recipient shall have not occurred and be continuing. Recipient shall provide an irrevocable Notice to Provider not less than one-hundred and eighty (180) days prior to the Purchase Option Date to exercise its Purchase Option (a "Purchase Option Notice"). If Recipient elects a Purchase Option, the purchase price shall be the greater of the (i) then Fair Market Value of the System Assets on the Purchase Option Date, or (ii) the then applicable Termination Payment (the "Purchase Option Price"). The Fair Market Value of the System Assets shall be the value determined by (i) the mutual agreement of Recipient and Provider within thirty (30) Business Days of the date of the Purchase Option Notice, or (ii) absent such mutual agreement, an Independent Appraiser in accordance with the procedure set forth in this Article.

13.2 Selection of Independent Appraiser. Absent mutual agreement of the Parties within thirty (30) Business Days of the date of the Purchase Option Notice of the Fair Market Value, the Parties shall as soon as reasonably practicable formally convene a meeting to select an Independent Appraiser to determine the Fair Market Value of the System Assets. If Provider and Recipient are unable to agree upon the appointment of an Independent Appraiser within fifteen (15) Business Day of the formal meeting to select such Independent Appraiser, then the Provider shall select the Independent Appraiser from a list prepared by Recipient of four (4) nationally recognized independent appraisers with experience and expertise in the solar photovoltaic industry to value such equipment. Such Appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. Provider and Recipient shall each be responsible for payment of one half of the costs and expenses of the Independent Appraiser.

13.3 Transfer of System Assets. Upon the Purchase Option Date, Recipient shall pay Provider the Purchase Option Price (together with all other amounts owed by Recipient under this SSA) in the form of certified check, bank draft or wire transfer. Upon receipt by Provider of the Purchase Option Price, title to the System Assets shall transfer to Recipient "as-is, where-is" and free and clear of all liens and Recipient shall assume all liabilities arising from or related to the System Assets from and after the date of transfer of the System Assets. In connection with such purchase, Provider shall, to the extent transferable, transfer the remaining period, if any, on all warranties for the System (and any component parts thereof) to Recipient.

ARTICLE XIV  
CONFIDENTIALITY

14.1 Confidentiality. Recipient agrees not to disclose information designated by Provider as Confidential Information to any third party except for Recipient's officers, employees, or legal counsel. Notwithstanding the foregoing, Recipient may disclose Confidential Information to comply with the requirements of any Applicable Law or in connection with any judicial or regulatory proceeding or request by a governmental authority.

ARTICLE XV  
MARKETING AND PROMOTION

15.1 Marketing and Promotion. Each Party shall (subject to Section 14 of this Agreement) have the right to promote the installation, operation, and usage of the System through any means, including press releases, case studies, published material, Internet websites and sales literature; provided, however that any such materials shall be subject to the other Party's prior written consent, such consent not to be unreasonably withheld or delayed.

ARTICLE XVI  
NOTICES

16.1 Notices. Any notices, requests, statements or payments ("Notices") will be made to the addresses and persons specified below. All Notices will be made in writing except where this SSA expressly provides that notice may be made orally. Notices required to be in writing may be delivered by hand delivery, or overnight delivery. Notice by hand delivery or overnight delivery will be deemed to have been received when delivered. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to Recipient:

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

Phone: 928-373-5011

If to Provider:

Climatec LLC  
2851 W. Kathleen Road  
Phoenix, AZ 85053

Phone: 602-906-1713

ARTICLE XVII  
ASSIGNMENT; BINDING EFFECT

17.1 Assignment; Binding Effect. Neither Party shall assign its rights and obligations hereunder to another party with the prior written consent of the other Party, which shall not be unreasonably withheld; provided, however, without the prior written consent of Recipient, Provider may (i) assign this Agreement to an Affiliate of Provider, and/or (ii) collaterally assign this Agreement to a Financier in connection with the financing of the System.

17.2 Cooperation with Financing. Recipient acknowledges that Provider will be financing the acquisition, installation and/or operation of the System through a lessor, lender, investors or with financing accommodations (including a sale/leaseback or third party investment or purchase) from one or more financial or banking institutions ("Financiers") and that the Provider may lease, sell or assign the System and/or may secure the Provider's obligations by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. Notwithstanding any instructions to the contrary from Provider, Recipient will recognize Financiers, or any third party to whom Financiers has reassigned their rights to and any Financier (or its assignee) is fully entitled to receive the rights and benefits hereunder so long as such party performs the obligations of Provider hereunder. Recipient agrees that it shall cooperate with Provider and Financiers in connection with such financing of the System, including (a) the furnishing of such information, and (b) the giving of such certificates regarding factual matters, as Provider and its financing parties may reasonably request.

In addition to the foregoing, Recipient consents to the filing by Provider, on behalf of Recipient, of a filing (which filing shall not impose a lien on the Premises) or a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises. Upon Provider's notice to Recipient of the identity and address of the Financier that will provide financing to Provider in respect of the System, such Financier shall have those rights described in Exhibit H, and shall become a third party beneficiary of this Section 17.2.

ARTICLE XVIII  
MISCELLANEOUS

18.1 Governing Law/Venue. This SSA shall be governed by the laws of the State of Arizona, without giving effect to principles of conflicts of laws. The Parties agree that the courts of the State of Arizona and the Federal Courts sitting therein shall have jurisdiction over any action or proceeding arising under the SSA to the fullest extent permitted by Applicable Law. The Parties waive to the fullest extent permitted by Applicable Law any objection it may have to the venue of any action or proceeding under this Agreement in any courts described in this Section 18.1.

18.2 Entire Agreement; Amendments. This SSA (including the exhibits, any written schedules, supplements or amendments thereto) constitutes the entire

understanding between the Parties, and shall supersede any prior oral or written agreements between the Parties, relating to the subject matter hereof. Any amendment, modification or change to this SSA will be void unless in writing and signed by both Parties.

18.3 Non-Waiver. No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. Any waiver must be in a writing signed by the Party making such waiver.

18.4 Severability. If any part, term, or provision of this SSA is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality, or enforceability of any other part, term, or provision of this SSA, and shall not render this SSA unenforceable or invalid as a whole.

18.5 No Third Party Beneficiaries. Except as otherwise expressly provided herein, nothing in this SSA will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind.

18.8 Counterparts. This SSA may be executed in two or more counterparts, each of which is an original and all of which together constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged are effective to bind a Party hereto.

18.9 Further Assurances. The Parties shall do such further acts, perform such further actions, execute and deliver such further or additional documents and instruments as may be reasonably required or appropriate to consummate, evidence, or confirm the agreements and understandings contained herein and to carry out the intent and purposes of this SSA.

18.10 Exhibits and Schedules. Any and all exhibits and schedules referenced herein and/or attached hereto are hereby incorporated into this Agreement by reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

RECIPIENT

City of Yuma

By: \_\_\_\_\_  
Gregory K. Wilkinson  
City Administrator

PROVIDER

Climatec LLC

By: \_\_\_\_\_  
Steve Siverson  
Vice President

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PREMISES**

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A. The System shall be installed at:

Yuma City Hall  
One City Plaza  
Yuma, AZ 85364

## EXHIBIT B

### INITIAL DESCRIPTION OF THE SYSTEM

**Estimated Output:** 559,530 kWh during the first full year of operation. For each year of operation thereafter, the estimated Energy Output is the estimated from the immediately preceding year, multiplied by one (1) minus the Degradation Factor. The estimated annual Energy Output is an estimate only, and not a guaranty of System performance.

#### Layout:



**Notes:**

(1) The description of the System as set forth in this Exhibit B and Estimated Initial Output are based on known conditions as of the Effective Date at the Premises and otherwise. The final System design may vary from the initial description set forth above, subject to the terms and conditions of the SSA. Following final completion, this Exhibit B will be updated to reflect the as-built System.

## EXHIBIT C

### DEFINITIONS

1. Definitions. The definitions provided below and elsewhere in this SSA will apply to the defined terms used in this SSA:

“Affiliate” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

“Agreement” has the meaning ascribed to such term in the first sentence of this Solar Services Agreement.

“Applicable Law” means, with respect to any governmental authority, any constitutional provision law, statute, rule, regulation, ordinance, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such governmental authority, enforceable at law or in equity, along with the interpretation and administration thereof by any governmental authority.

“Authorized Offline Period” has the meaning ascribed such term in Section 3.6(a).

“Bankruptcy Code” means the United States Bankruptcy Code.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“Claiming Party” has the meaning ascribed to such term in Section 8.3.

“Commercial Operation” means that the System is ready for regular, daily operation, has been connected to the Premises electrical system upon approval by the Electric Utility Provider, and is capable of producing Energy Output.

“Commercial Operation Date” means the date, determined by Provider and set forth in writing to Recipient, upon which (i) the Electric Utility Provider has provided its authorization to interconnect the System and operate it in parallel with the local grid and (ii) the System commences delivery of Energy to the Delivery Point.

“Confidential Information” means any non-public confidential or proprietary information (whether conveyed orally, electronically or in hard copy) of a Party or its Affiliates or any of its or their Representatives relating to this SSA, the System revealed to the other Party or its Affiliates or any of its or their Representatives during the Term and conspicuously identified as confidential.

“Degradation Factor” means a 0.50% annual degradation factor applied commencing on the first anniversary of the Commercial Operation Date.

“Delivery Point” means the point where the System is interconnected to Recipient’s electrical intertie.

“Due Date” has the meaning ascribed to such term in Section 10.1.

“Early Termination Date” has the meaning ascribed to such term in Section 9.2.

“Electric Utility Provider” means the entity authorized and required under Applicable Law to provide electric distribution service to Recipient at the Premises.

“Energy” means electrical energy (three-phase, 60-cycle alternating current, expressed in kWh) generated by the System.

“Energy Output” means the amount of Energy generated by the System and delivered to Recipient at the Delivery Point, as metered in whole kilowatt-hours (kWh) at the Metering Device.

“Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the System, and its displacement of conventional energy generation. Environmental Attributes include but are not limited to Renewable Energy Credits.

“Event of Default” has the meaning ascribed to such term in Section 9.1

“Expected Monthly Output” means, with respect to any calendar month, the average Energy Output that the System has produced in such month in all prior years of operation, reduced by the Degradation Factor (and if the System has not been in operation for twelve (12) consecutive months prior to such month, then Provider’s reasonable estimation of what the Energy Output would have been absent the Unauthorized Shutdown or shading).

“Fair Market Value” means the price that would be paid in an arm’s length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

“Financiers” has the meaning ascribed to such term Section 17.2.

“Force Majeure” means, when used in connection with the performance of a Party’s obligations under this SSA, any of the following events to the extent not caused by such Party or its agents or employees: (i) war, riot, acts of a public enemy or other civil disturbance; (ii) acts of God, including but not limited to, storms, floods, lightning, earthquakes, hailstorms, ice storms, tornados, typhoons, hurricanes, landslides, volcanic eruptions, range or forest fires, and objects striking the earth from space (such as meteorites), sabotage or destruction by a third party (other than any contractor

retained by or on behalf of the Party) of facilities and equipment relating to the performance by the affected Party of its obligations under this SSA; and (iii) strikes, walkouts, lockouts or similar industrial or labor actions or disputes. Economic hardship of either Party shall not constitute Force Majeure.

“Governmental Charges” means all applicable federal, state and local taxes (other than taxes based on income or net worth), governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including sales tax and public purposes charges and low income bill payment assistance charges), imposed or authorized by a governmental authority, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy or this SSA, but excluding use, transaction privilege, sales or similar taxes on labor, materials or services related to construction or maintenance of the System.

“Independent Appraiser” means an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, experience and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the System. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or have been) a director, officer or an employee of, or directly or indirectly retained as consultant or adviser to, Provider or Recipient or any Affiliate of Provider or Recipient.

“Installation Work” means the labor to construct the integrated assembly of any solar components, photovoltaic panels, mounting assemblies, inverters, converters, meters, lighting fixtures, transformers, ballasts, disconnects, trenching, combiners, switches, wiring devices, wiring and site preparation, installed for the purpose of generating electricity.

“Interest Rate” means, for any date, the lesser of (i) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or, if not published on such day, on the most recent preceding day on which published), plus two percent (2%) and (ii) the maximum rate permitted by Applicable Law.

“kWh” means kilowatt-hour and is the unit of measurement for Energy.

“Metering Device” means any and all meters at or before the Delivery Point needed for the registration, recording, and transmission of information regarding the Energy generated by the System and delivered to the Delivery Point.

“Non-Defaulting Party” has the meaning ascribed to such term in Section 9.2.

“Notice” has the meaning ascribed to such term in Section 16.1.

“Party” or “Parties” has the meaning ascribed to such term in the first paragraph of this Agreement.

“Premises” means the land, and/or building described in Exhibit A.

“Purchase Option” has the meaning ascribed to such term in Section 13.1.

“Purchase Option Date” has the meaning ascribed to such term in Section 13.1.

“Purchase Option Notice” has the meaning ascribed to such term in Section 13.1.

“Purchase Option Price” has the meaning ascribed to such term in Section 13.1.

“Recipient Maintenance Removal” has the meaning ascribed to such term in Section 8.4(g).

“Renewable Energy Credit” or “REC” means renewable energy credit(s) or certificates, emission reduction credits, emission allowances, green tags, tradable renewable credits, or other transferable indicia denoting carbon offset credits or indicating generation of a particular quantity of renewable energy attributed to the Energy produced by the System.

“Solar Services” means the design, construction, installation, financing, maintenance (including repair and replacement) and operation of the System, the assistance with traditional energy demand reduction by delivery of all of the Energy produced by the System to the Delivery Point and other services associated with this SSA as Recipient may from time to time reasonably request from Provider, at no incremental cost and expense to Provider.

“Solar Services Payment Rate” has the meaning ascribed to such term in Exhibit D.

“System” means the solar, photovoltaic generating system(s) to be installed by Provider on the Premises for purposes of providing the Solar Services to Recipient, as more particularly described in Exhibit B.

“System Assets” means the System together with all such other tangible and intangible assets, permits, improvements, property rights and contract rights used for the construction, operation and maintenance (including repair or replacement) of the System.

“System Loss” means loss, theft, damage, destruction, condemnation or taking of the System or System Assets, or any other occurrence or event that prevents or limits the System from operating in whole or in part, resulting from or arising out of any cause (including casualty, condemnation or Force Majeure) other than (i) Provider’s negligence or intentional misconduct, (ii) Provider’s material breach of its maintenance obligations under the SSA, or (iii) normal wear and tear of the System.

“Tax Benefits” means any loss, deduction, depreciation, and/or credit for federal, state, or local income tax purposes (or any grants in lieu thereof) and any federal, state, or local state tax incentives, available in connection with the ownership, operation or use of the System.

“Temporary Shutdown Fees” has the meaning ascribed to such term in Section 3.6(a).

“Term” has the meaning ascribed to such term in Section 2.1.

“Termination Payment” means the amount payable in respect of any period as set forth in Exhibit E hereto.

“Unauthorized Shutdown” has the meaning ascribed to such term in Section 3.6(a).

## EXHIBIT D

### SOLAR SERVICES PAYMENT RATE

The payment to be made by Recipient to Provider shall equal the Energy Output for the relevant period multiplied by the Solar Services Payment Rate for such period. The Parties agree that such payment of the Solar Services Payment Rate comprises a negotiated rate that reflects the provision of the full Solar Services.

1. Solar Services Payment Rate: \$0.1386 /kWh
2. Solar Services Payment Rate Escalator: 0% per annum (to be applied on the first and, each subsequent, anniversary of the Commercial Operations Date)

**EXHIBIT E**  
**TERMINATION PAYMENT**

<b>Operating Year</b>	<b>Termination Payment</b>
<b>1</b>	\$ 1,999,000
<b>2</b>	\$ 1,652,000
<b>3</b>	\$ 1,532,000
<b>4</b>	\$ 1,400,000
<b>5</b>	\$ 1,286,000
<b>6</b>	\$ 1,186,000
<b>7</b>	\$ 1,114,000
<b>8</b>	\$ 1,054,000
<b>9</b>	\$ 996,000
<b>10</b>	\$ 938,000
<b>11</b>	\$ 878,000
<b>12</b>	\$ 820,000
<b>13</b>	\$ 764,000
<b>14</b>	\$ 710,000
<b>15</b>	\$ 654,000
<b>16</b>	\$ 600,000
<b>17</b>	\$ 546,000
<b>18</b>	\$ 490,000
<b>19</b>	\$ 436,000
<b>20</b>	\$ 382,000
<b>21</b>	\$ 328,000
<b>22</b>	\$ 268,000
<b>23</b>	\$ 208,000
<b>24</b>	\$ 148,000
<b>25</b>	\$ 90,000

## **EXHIBIT F**

### **PROVIDER'S INSURANCE REQUIREMENTS**

Provider shall, until completion and acceptance, maintain 1) "Special Perils" property insurance on the System for the full insurable replacement cost thereof, 2) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate; 3) employer's liability insurance with coverage of at least \$1,000,000; and 4) worker's compensation insurance as required by Applicable Law.

All insurance policies provided hereunder shall: 1) contain a provision whereby the insurer agrees to give the Recipient thirty (30) days (ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled; 2) be written on an occurrence basis; 3) with respect to liability insurance policies, include the Recipient as an additional insured; 4) include waivers of subrogation in favor of Recipient; 5) provide for primary coverage without right of contribution from any insurance of the Recipient; and 6) be maintained with companies either rated no less than A- in the most recent edition of "Best's Insurance Guide" or otherwise reasonably acceptable to the Recipient.

## EXHIBIT G

### RECIPIENT'S INSURANCE REQUIREMENTS

Recipient shall upon completion and acceptance maintain 1) "Special Perils" property insurance on the system for the full insurable replacement cost and at all times, maintain; 2) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate; 3) employer's liability insurance with coverage of at least \$1,000,000; and 4) worker's compensation insurance as required by Applicable Law.

All insurance policies provided hereunder shall: 1) contain a provision whereby the insurer agrees to give the Provider thirty (30) days ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled; 2) be written on an occurrence basis; 3) with respect to property insurance policies, name Provider as a loss payee thereunder; 4) with respect to liability insurance policies, include Provider as an additional insured; 5) include waivers of subrogation in favor of the Provider; 6) provide for primary coverage without right of contribution from any insurance of the Provider; and 7) be maintained with companies either rated no less than A- as to Policy Holder's Rating in the most recent edition of "Best's Insurance Guide" or otherwise reasonably acceptable to the Provider.

## EXHIBIT H

### CERTAIN AGREEMENTS FOR THE BENEFIT OF FINANCIER

Reference is made to that certain Solar Services Agreement dated as of \_\_\_\_\_, 201\_\_ (the "SSA") between City of Yuma ("Recipient") and Climatec LLC ("Provider"). Unless otherwise indicated, capitalized terms used herein shall have the meanings specified in the SSA.

In connection with Provider's financing of the System, and pursuant to Section 17.2 of the SSA, at such time as Provider notifies Recipient of the identify and notice information for the Financier, the following provisions shall apply. In order to facilitate such financing, Recipient hereby acknowledges and covenants with Financier as follows:

1. Assignment and Security Interest. As security for the due and punctual performance and payment of all of Provider's obligations under the documentation for such financing (the "Financing Documents"). Provider has assigned or will assign to Financier as collateral security all of its right, title and interest in, to and under the SSA (together, the "Assigned Agreement"), upon the terms set forth in that certain security agreement (or other similarly named agreement) entered into or to be entered into between Provider and such Financier (the "Security Agreement").
2. Acknowledgement and Agreement.
  - (a) Recipient hereby acknowledges that the assignment specified in Section 1 above and any subsequent assignments by Financier upon and after the Financier's exercise of its rights and remedies under the Security Agreement may be made without the consent of the Recipient (provided that the assigning party shall notify Recipient as soon as practicable and in advance of any subsequent assignment).
  - (b) Recipient acknowledges that Financier has the right under certain conditions, including a default by Provider under the Financing Documents, to take possession of and succeed to all of Provider's right, title and interest under the Assigned Agreement, including the right to continue to perform in place of the Provider, the right to require the counterparty to perform under such agreements, and the right to rely upon all representations, warranties, indemnities and agreements made by the Recipient under or pursuant to the Assigned Agreement.
  - (c) The Parties acknowledge that the terms of the Solar Services Agreement are currently above the City of Yuma's avoided cost rate from Arizona Public Service (APS), and, as a result, the City of Yuma will incur

additional electricity expense after the Commercial Operation Date in the Solar Services Agreement.

- (d) Recipient (i) acknowledges that Recipient has been advised that Financier [is or may become] the title owner of the System, (ii) acknowledges and agrees that the System shall remain personal property of Financier regardless of the manner or mode of the System's attachment to the Premises and shall not become or be deemed to be fixtures, (iii) agrees that Recipient has no claim of ownership to the System absent of exercising its Purchase Option in Section 13.1 of the SSA, (iv) agrees to provide Financier, Financier's assignee and agents access to the Premises in the same manner as Recipient agreed to provide in the SSA, and (v) agrees that any encumbrance on the Premises will not result in an encumbrance of any nature on the System, in the same manner as Recipient agreed in Section 8.4(d) (Liens) of the SSA.

3. Default and Cure.

- (a) If Provider defaults under an Assigned Agreement, Recipient shall, before terminating such Assigned Agreement or exercising any other remedy, give written notice to the Financier specifying the default and the steps necessary to cure the same and Financier shall cure such default or cause it to be cured within ninety (90) days of the later of (i) receipt of such notice OR (ii) the date on which such default has become a default under such Financing Document, (or such longer period of time as may be necessary under the circumstances, provided Financier is diligently pursuing such cure). If Financier fails to cure or cause to be cured any such default within the appropriate period set forth above, the Recipient shall have all of its rights and remedies with respect to such default as set forth in the relevant Assigned Agreement and at law or in equity.
- (b) In the event that an Assigned Agreement is terminated by rejection, or otherwise, during a case in which Provider is the debtor under the United States Bankruptcy Code, or other similar federal or state statute, then the Recipient shall, at the option of Financier, enter into a new agreement with Financier or (at the direction of Financier) its nominee or designee having terms identical to the relevant Assigned Agreement pursuant to which Financier or its nominee or designee shall have all of the rights and obligations of Financier under such Assigned Agreement.

4. Liability of Financier. Recipient acknowledges and agrees that Financier has not assumed and does not have any obligation or liability under or pursuant to the Assigned Agreement except as set forth in this Solar Services Agreement as a whole, and that the exercise by Financier of its rights and remedies under the Assigned Agreement shall not constitute an assumption of Provider's obligations

under the Assigned Agreement (except to the extent any such obligations shall be expressly assumed by an instrument in writing executed by Financier or as otherwise provided herein).

5. Amendment or Termination of Assigned Agreement. Recipient covenants and agrees that without the prior written consent of Financier, the Recipient will not amend, modify or terminate the Assigned Agreement.
6. Notices. All communications to be given to Financier shall be given to the address for Financier provided below. All communications to be given to Recipient or Provider shall be given to the addresses set forth in Section 16.1 of the SSA.
7. Governing Law. This agreement will be governed by the laws of the State of Arizona.



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** Fire

**DIVISION:** Administration

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

**TITLE:**  
Public Record Declaration: NFPA 1 Fire Code 2012

**SUMMARY RECOMMENDATION:**  
Authorize the declaration of a certain document titled NFPA 1 Fire Code 2012 (National Fire Protection Association 1 Fire Code 2012), a public record and order three copies to remain on file with the City Clerk.

**REPORT:**  
The purpose of this resolution is to declare the NFPA 1 Fire Code 2012 a public record so that it may be adopted by reference and will not have to be published in its entirety, saving the City considerable expense. The NFPA 1 Fire Code 2012 is a 662-page document.

The standard procedure for adoption by this method is for the City Council to declare the proposed document a public record so that it can be adopted by reference, as allowed by Arizona Revised Statutes § 9-802. Three copies of the public record shall be filed in the office of the City Clerk of the municipality and kept available for public use and inspection. A code enacted by reference may also be amended in the same manner.

Additionally, all standard NFPA documents are available for public review at [www.nfpa.org](http://www.nfpa.org).

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. NFPA 1 Fire Code 2012 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 checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:			DATE:
	Gregory K. Wilkinson			11/12/2014
	REVIEWED BY CITY ATTORNEY:			DATE:
	Richard W. Files for Steven W. Moore			11/12/2014
	RECOMMENDED BY (DEPT/DIV HEAD):			DATE:
Steve Irr			11/4/2014	
WRITTEN/SUBMITTED BY:			DATE:	
Kayla Holiman			11/4/2014	

**RESOLUTION NO. R2014-41**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, DECLARING THAT A CERTAIN DOCUMENT TITLED *NFPA 1 FIRE CODE 2012* (NATIONAL FIRE PROTECTION ASSOCIATION 1 FIRE CODE 2012), BE DECLARED A PUBLIC RECORD AND ORDERING THE FILING OF THREE COPIES IN THE OFFICE OF THE CITY CLERK**

WHEREAS, it is necessary to periodically review and update the fire and life safety standards of the community; and,

WHEREAS, pursuant to Arizona Revised Statutes § 9-802 the City may adopt these fire and life safety standards by reference; and

WHEREAS, these fire and life safety standards need to be declared as a public record in order to adopt by reference; and

WHEREAS, significant public input has occurred and publication has been made available through the website of: [www.nfpa.org/1](http://www.nfpa.org/1) for review.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma that a document titled *NFPA 1 Fire Code 2012* is declared a public record and ordered that three copies are to remain on file in the Office of the City Clerk.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

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

ATTESTED:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven W. Moore  
City Attorney



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014  
**DEPARTMENT:** City Attorney  
**DIVISION:**

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

**TITLE:**  
Industrial Development Authority Charter School Revenue Bonds Series 2014

**SUMMARY RECOMMENDATION:**  
Approve the Issuance of Charter School Revenue Bonds, Series 2014 (Juniper Tree Academy, dba Desert View Academy) of the Industrial Development Authority of the City of Yuma, Arizona.

**REPORT:**

At a special meeting of the Industrial Development Authority (Authority) October 7, 2014, the Authority approved a \$14,500,000 bond issue for Juniper Tree Academy, dba Desert View Academy (Desert View), to finance the acquisition, construction, and equipping of educational facilities (Project) to be located at 16<sup>th</sup> Street and Avenue C, Yuma, AZ (Series 2014 fixed-rate bonds). The Authority is authorized to facilitate funding for this Project under A.R.S. § 35-701(8)(xii), which permits funding of any educational institution or organization organized pursuant to Title 15, Chapter 1, Article 8 (charter schools) and that is owned by a nonprofit organization.

The City Council previously approved a \$13,500,000 bond issue on February 19, 2014 for Desert View to build a school located at 24<sup>th</sup> Street and 45<sup>th</sup> Avenue. A new bond issue is necessary because the school site changed. The project is substantially the same except its location.

City Council approval of the 2014 bonds is required by state and federal law. The bonds are not, and will never become, the obligation of the Authority nor the City of Yuma. Neither the Authority nor the City of Yuma will bear any responsibility for repayment of the bonds, and no liability will accrue to either entity in the event of non-payment or other default of Desert View.

Closing on the 2014 bond issue is scheduled for approximately December 2014.

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. Bond Resolution of the Authority, authorizing issuance of the bonds 2. Trust Indenture between the Authority and the Trustee 3. Loan Agreement between the Authority and the School, Series 2014A. 4. Bond Purchase Agr btwn the Authority, School, and underwriter 5. Deed of Trust			
	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	11/12/2014
	REVIEWED BY CITY ATTORNEY:	DATE:
	Richard W. Files for Steven W. Moore	11/12/2014
	RECOMMENDED BY (DEPT/DIV HEAD):	DATE:
WRITTEN/SUBMITTED BY:	DATE:	
Daniel R. White	10/27/2014	

**RESOLUTION NO. R2014-43**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, APPROVING THE ISSUANCE OF ONE OR MORE SERIES OF CHARTER SCHOOL REVENUE BONDS (DESERT VIEW ACADEMY PROJECT) SERIES 2014 TO BE ISSUED BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF YUMA, ARIZONA; AND RELATED MATTERS**

WHEREAS, the City Council of the City of Yuma, Arizona (the “City Council”) has previously approved the incorporation of The Industrial Development Authority of the City of Yuma, Arizona (the “Authority”); and,

WHEREAS, the Authority proposes to issue in one or more series its Charter School Revenue Bonds (Desert View Academy Project) Series 2014 in an aggregate principal amount not to exceed \$14,500,000.00 (the “Desert View Bonds”) in accordance with and pursuant to Title 35, Chapter 5, Arizona Revised Statutes, as amended (the “Act”), to make a loan to Juniper Tree Academy, a duly organized and validly existing Arizona nonprofit corporation, doing business under the name Desert View Academy (the “School”), for the purposes of: (i) financing the acquisition, construction and equipping of certain educational facilities to be located on 12.6 acres of Yuma County Assessor’s Parcel Number 664-33-219 at approximately the southwest corner of W. 16<sup>th</sup> Street and Avenue C in the City of Yuma, Arizona (the “Facilities”), (ii) funding a bond reserve fund as set forth in a trust indenture (the “Indenture”), in substantially the form presented at this City Council meeting, with U.S. Bank National Association, as trustee (the “Trustee”), (iii) funding an operating reserve fund as set forth in the Indenture, (iv) paying capitalized interest on the Desert View Bonds and (v) paying certain issuance expenses (collectively, the “Project”); and,

WHEREAS, Section 35-721(B) of the Act requires approval of the Desert View Bonds by the City Council; and,

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), requires that the City Council approve the issuance of the Desert View Bonds after a public hearing following public notice published in advance of the hearing; and,

WHEREAS, a public hearing was held by the Authority on November 6, 2014, with respect to the aforementioned financing at the law office of Byrne & Benesch, P.C., 230 W. Morrison Street, Yuma, Arizona, 85364 following public notice published at least 14 days in advance of the hearing; and,

WHEREAS, the Authority has previously delivered to this City Council the Authority’s bond resolutions and forms of the bond documents (listed on Exhibit A hereto) pursuant to which the Desert View Bonds are to be issued and information regarding the Project and the City Council deems it appropriate to approve the issuance of the Desert View Bonds by the Authority.

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

SECTION 1: That the City Council hereby approves the issuance of the Desert View Bonds by the Authority, as provided in the bond documents of the Authority, as presented at this meeting and on file with the Authority’s counsel and the Clerk (which documents may be revised in accordance with the bond resolutions), in accordance with the requirements of the Act and of Section 147(f) of the Code, not to exceed the maximum original aggregate face amount of \$14,500,000.00.

SECTION 2: That the various, requisite City officers and employees are authorized and directed to take all actions necessary to effectuate the purposes of this Resolution.

SECTION 3: That all resolutions or ordinances, or parts thereof, which contemplate the same subject matter as this Resolution and which are in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

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

ATTESTED:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven W. Moore  
City Attorney

**EXHIBIT A**

**The Industrial Development Authority  
of the City of Yuma, Arizona  
Charter School Revenue Bonds  
(Desert View Academy Project)  
Series 2014**

1. Preliminary Inducement Resolution of the Authority adopted October 14, 2014, and the Final Bond Resolution of the Authority adopted November 12, 2014, authorizing issuance of the Desert View Bonds.
2. Trust Indenture, between the Authority and the Trustee, relating to the Desert View Bonds.
3. Loan Agreement, between the Authority and the School, relating to the Desert View Bonds.
4. Bond Purchase Agreement among the Authority, the School and D.A. Davidson & Co., as the underwriter thereunder, relating to the Desert View Bonds.



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** Community Development

**DIVISION:** Community Planning

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

**TITLE:**  
Rezoning of Property: Northwest corner of 32nd Street and Talon Avenue, Yuma, AZ.

**SUMMARY RECOMMENDATION:**  
Rezone approximately 0.74 acres from the General Commercial/Aesthetic Overlay (B-2/AO) District to the General Commercial (B-2) District. The property is located at the northwest corner of 32nd Street and Talon Avenue, Yuma, AZ. (ZONE-7131-2014)

**REPORT:**  
On October 27, 2014, the Planning and Zoning Commission voted to recommend APPROVAL (6-0, with Underhill absent) of the request to rezone approximately 0.74 acres from the General Commercial/Aesthetic Overlay (B-2/AO) District to the General Commercial (B-2) District for property located at the northwest corner of 32nd Street and Talon Avenue, subject to the following conditions:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized "Waiver of Claims under the Private Property Rights Protection Act." The Waiver shall be submitted within thirty (30) calendar days of the effective date of approval of this zoning action and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the zoning action is null and void.
3. With the exception of Condition 2, each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS 9-462.01.

**PUBLIC COMMENTS - EXCERPT FROM PLANNING AND ZONING COMMISSION MEETING MINUTES:**

“Joy Everett – Senior Planner, summarized the staff report, recommending APPROVAL.

**QUESTIONS FOR STAFF**  
None

**APPLICANT / APPLICANT'S REPRESENTATIVE**

**"Margie Mitchell, property owner,** said she wanted to remove the AO designation to allow her the discretion of selecting her own paint color and signage.

**OPEN PUBLIC COMMENT**

None

**CLOSE PUBLIC COMMENT**

**MOTION**

**"Motion by Koopmann, second by Conde, to APPROVE Case Number ZONE-7131-2014, subject to the Conditions of Approval in Attachment A. Motion carried unanimously (6-0)."**

**Planning Commission Staff Report - Attached**

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$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:	
	Gregory K. Wilkinson		10/29/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		10/29/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Laurie L. Lineberry		10/28/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Stephanie Joy Everett		10/28/2014		



**STAFF REPORT TO THE PLANNING AND ZONING COMMISSION  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
COMMUNITY PLANNING DIVISION  
CASE TYPE – REZONE**

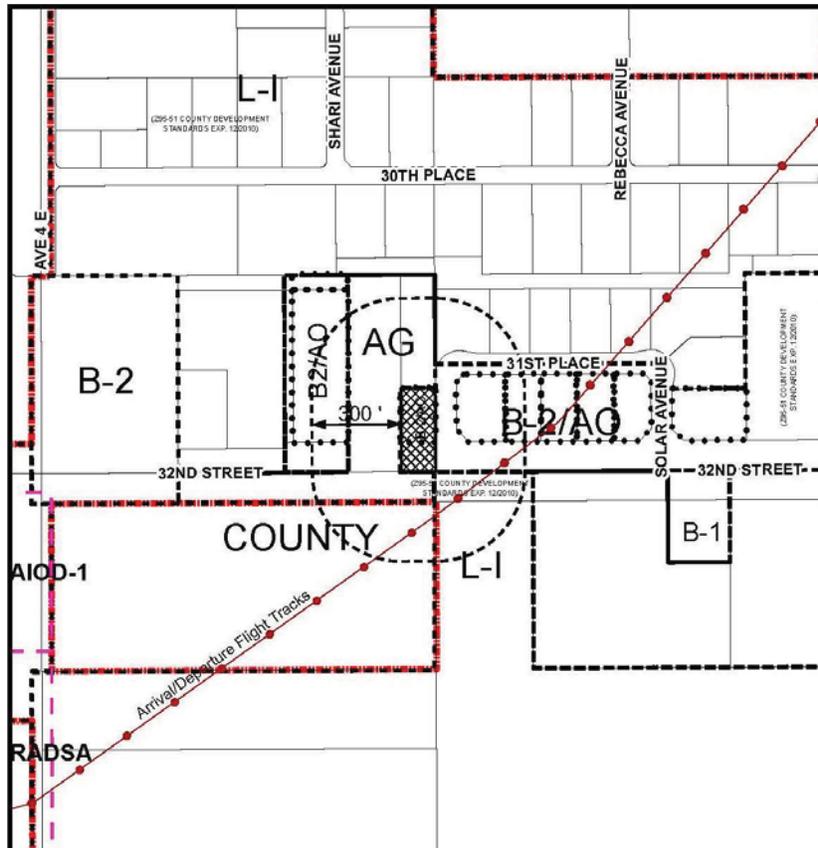
**Hearing Date:** October 27, 2014

**Case Number:** ZONE-7131-2014

**Project Description/Location:** Rezone approximately 0.74 acres from the General Commercial/Aesthetic Overlay (B-2/AO) District to the General Commercial (B-2) District. The property is located at the northwest corner of 32<sup>nd</sup> Street and Talon Avenue, Yuma, AZ.

	Existing Zoning	Existing Land Use	Land Use Designation
<b>Site</b>	General Commercial / Aesthetic Overlay (B-2/AO)	Vacant (former restaurant and bar)	Commercial
<b>North</b>	Agriculture (AG)	Vacant (former residence and salvage yard)	Commercial
<b>South</b>	County General Commercial (C-2)	Agriculture field	Industrial
<b>East</b>	General Commercial / Aesthetic Overlay (B-2/AO)	Pinnacle Health Care	Commercial
<b>West</b>	Agriculture (AG)	Superior Awning	Commercial

**Location Map**



**Prior site actions:** Annexation: Ord. O96-026 (March 21, 1996); and Rezone: Agriculture upon annexation; Ord. O2005-59 (August 17, 2005) – Z2004-031.

**Staff recommendation:** Staff recommends APPROVAL of the rezoning of the property from the General Commercial/Aesthetic Overlay (B-2/AO) District to the General Commercial (B-2) District, subject to the conditions shown in Attachment A, because the request is in conformance with the General Plan.

**Suggested Motion:** Move to **APPROVE** the rezoning of the property from the General Commercial/Aesthetic Overlay (B-2/AO) District to the General Commercial (B-2) District, subject to the conditions shown in Attachment A, because the request is in conformance with the General Plan.

**Staff Analysis:** The subject property was developed in Yuma County in 1970 with two commercial structures, one 4,152 square feet and the other 2,342 square feet. In 1996, the property was annexed into the City of Yuma and rezoned to the Agriculture (AG) District upon annexation. The property has been used as a restaurant and bar for many years.

In 2004, the property was rezoned from Agriculture (AG) to General Commercial/Aesthetic Overlay (B-2/AO) District. The property owner originally requested that the property be rezoned to the General Commercial (B-2) zoning District. At that time, the 2002 General Plan designated 32<sup>nd</sup> Street as a Gateway Route, so staff recommended the addition of the Aesthetic Overlay (AO) to be in conformance with the General Plan. The Aesthetic Overlay (AO) District was created to enhance the community's image and attractiveness, and to establish areas where the design of physical improvements and landscape enhances the community's appearance. To accomplish this goal, the zoning code applies additional development review procedures for properties within this overlay district.

The applicant is requesting that the Aesthetic Overlay be removed from the property. The Gateway Route designation for this section of 32<sup>nd</sup> Street was removed with the 2012 General Plan update, thus eliminating the Aesthetic Overlay requirement for the subject property and many others along 32<sup>nd</sup> Street.

**1. Does the proposed zoning district conform to the Land Use Element?**

Yes

**2. Are there any dedications or property easements identified by the Transportation Element?**

No

**3. Does the proposed rezoning of the property conform to the remaining elements of the general plan?**

Yes

**4. Does the proposed rezoning conform to the adopted facilities plan?**

Yes

**5. Does the proposed rezoning conform to Council's prior approval of rezonings, development agreements or subdivisions for this site?**

Yes

**Public Comments Received:** One Received.

Name:	John Whitaker			Contact Information:	4228 E. 32 <sup>nd</sup> Street				
Method of Contact:	Phone	X	FAX		Email		Letter		Other
Mr. Whitaker called to find out what the request was for. Staff informed him that it was to remove the AO. Mr. Whitaker is not opposed to the request.									

**External Agency Comments:** None Received.

**Neighborhood Meeting Comments:** No Meeting Required.

**Proposed conditions delivered to applicant on:** September 24, 2014

**Final staff report delivered to applicant on:** October 6, 2014

<input checked="" type="checkbox"/>	Applicant agreed with all of the conditions of approval on: September 24, 2014
<input type="checkbox"/>	Applicant did not agree with the following conditions of approval: (list #'s)
<input type="checkbox"/>	If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

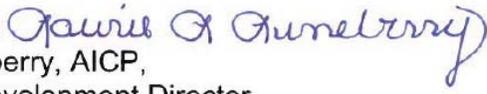
**Attachments**

<b>A</b>	<b>B</b>
Staff Conditions of Approval	Aerial Photo

**Project Planner:** Joy Everett, Senior Planner      373 -5000 #3034      [Joy.Everett@YumaAZ.gov](mailto:Joy.Everett@YumaAZ.gov)

**Prepared By:**       **Date:** 9/30/14  
 Joy Everett, Senior Planner

**Reviewed By:**       **Date:** 9/30/14  
 Bobette Bauermann, Principal Planner

**Approved By:**       **Date:** 10.3.14  
 Laurie L. Lineberry, AICP,  
 Community Development Director

**ATTACHMENT A  
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

**Department Of Community Development Comments: Laurie Lineberry, Community Development Director (928) 373-5175:**

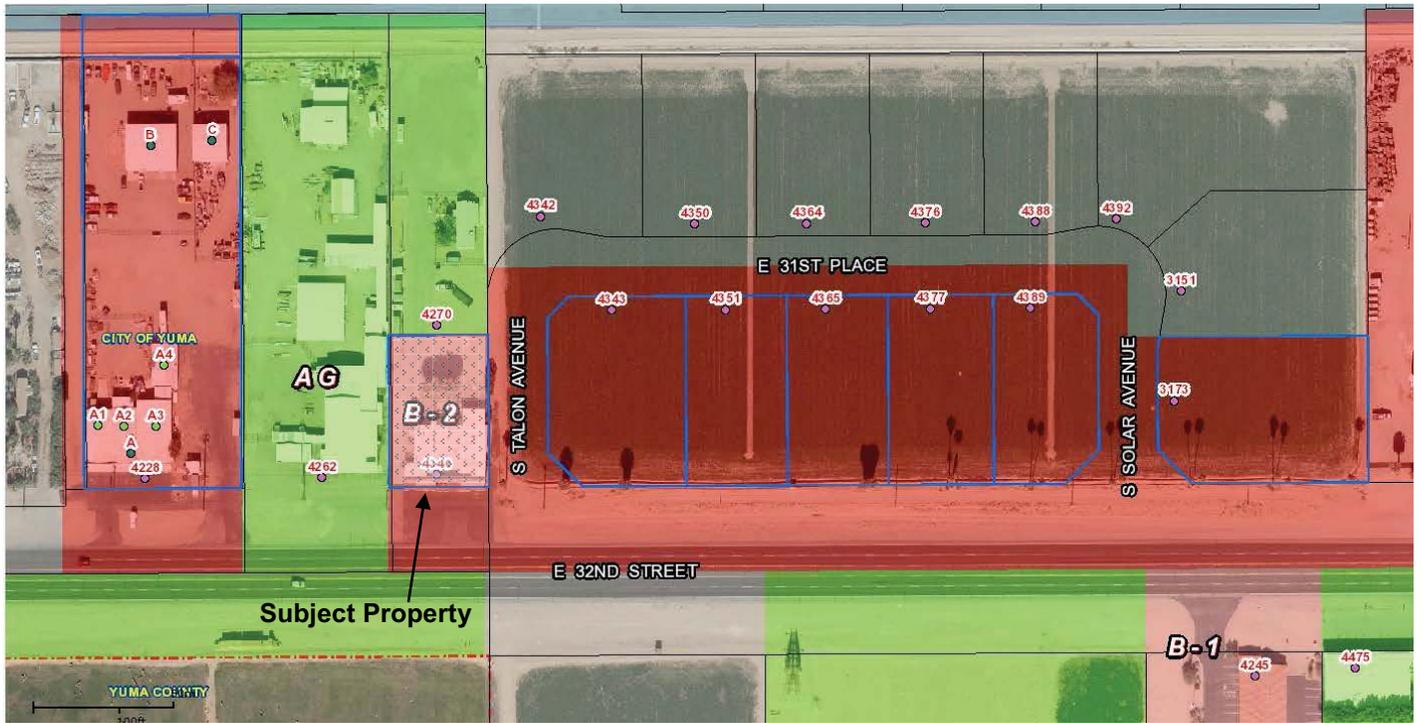
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized "Waiver of Claims under the Private Property Rights Protection Act." The Waiver shall be submitted within thirty (30) calendar days of the effective date of approval of this zoning action and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the zoning action is null and void.

**Community Planning Conditions: Joy Everett, Senior Planner, (928) 373-5000 x3034:**

3. With the exception of Condition 2, each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS 9-462.01.

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

**ATTACHMENT B  
AERIAL PHOTO**





**STAFF RESEARCH – REZONE**

**CASE #: ZONE-7131-2014**  
**CASE PLANNER: JOY EVERETT**

**I. PROJECT DATA**

Project Location:	Northwest corner of 32 <sup>nd</sup> Street and Talon Avenue													
Parcel Number(s):	697-25-016													
Parcel Size(s):	32,200 square feet													
Total Acreage:	0.74													
Proposed Dwelling Units:	N/A													
Address:	4340 E. 32 <sup>nd</sup> Street													
Applicant:	Margie Mitchell													
Applicant's Agent:	N/A													
Land Use Conformity Matrix:	Conforms:	Yes	X	No										
Zoning Overlay:	Public		AO	X	Auto		B&B		Historic		None		Airport	
	Noise Contours	65-70		70-75		75+		APZ1		APZ2		Clear Zone		

	Existing Zoning	Existing Land Use	Planned Land Use
<b>Site</b>	General Commercial / Aesthetic Overlay (B-2/AO)	Vacant (former restaurant and bar)	Commercial
<b>North</b>	Agriculture (AG)	Vacant (former residence and salvage yard)	Commercial
<b>South</b>	County General Commercial (C-2)	Agriculture field	Industrial
<b>East</b>	General Commercial / Aesthetic Overlay (B-2/AO)	Pinnacle Health Care	Commercial
<b>West</b>	Agriculture (AG)	Superior Awning	Commercial

Prior Cases or Related Actions:											
Type	Conforms			Cases, Actions or Agreements							
Pre-Annexation Agreement	Yes		No	N/A							
Annexation	Yes	X	No	Ord. O96-026 (March 21, 1996)							
General Plan Amendment	Yes		No	N/A							
Development Agreement	Yes		No	N/A							
Rezone	Yes	X	No	Agriculture upon annexation; Ord. O2005-59 (August 17, 2005) – Z2004-031							
Subdivision	Yes		No	N/A							
Conditional Use Permit	Yes		No	N/A							
Pre-Development Meeting	Yes		No	N/A							
Design Review Commission	Yes		No	N/A							
Enforcement Actions	Yes		No	N/A							
Avigation Easement Recorded	Yes	X	No	Fee #	2006-35725		If no, add to Conditions of Approval				
Land Division Status:	Parcel is a legal lot of record.										
Irrigation District:	Yuma Mesa Irrigation and Drainage District										
Adjacent Irrigation Canals & Drains:	None										
Water Conversion: (5.83 ac ft/acre)	4.31 Acre Feet a Year					Highlight & F9 to compute field					
Water Conversion Agreement Required	Yes		No	X							

**II. CITY OF YUMA GENERAL PLAN**

<b>Land Use Element:</b>	
Land Use Designation:	Commercial

Noise Contour:	N/A	Overlay/Specific Area:	N/A																														
Issues:	None																																
Historic District:	Brinley Avenue	Century Heights	Main Street																														
Historic Buildings on Site:	Yes	No	X																														
<b>Transportation Element:</b>																																	
<b>FACILITY PLANS</b>																																	
Major Roadways Plan	Planned		Existing																														
32 <sup>nd</sup> Street – Expressway	80 FT H/W		0 FT H/W																														
Talon Avenue – Local Street	29 FT H/W		35 FT H/W																														
Median Covenant	N/A																																
Gateway Route	Scenic Route	Hazardous Cargo Route	Truck Route																														
			X																														
Bicycle Facilities Master Plan	Proposed Bike Path along 32 <sup>nd</sup> Street																																
YCAT Transit System	Green Route 4 stop along Avenue 3E across from MCAS Main Gate																																
Issues:	None																																
<b>Parks, Recreation and Open Space Element:</b>																																	
Parks and Recreation Facility Plan																																	
Neighborhood Park:	Existing: Terrace View Park	Future: Terrace View Park																															
Area Park	Existing: Kennedy Park	Future: East Mesa Area Park 2																															
Linear Park:	Existing: East Main Canal	Future: B Lateral																															
Issues:	None																																
<b>Housing Element:</b>																																	
Special Need Household:	N/A																																
Issues:	None																																
<b>Redevelopment Element:</b>																																	
Planned Redevelopment Area:	N/A																																
Adopted Redevelopment Plan:	North End:	Carver Park:	None: X																														
Conforms:	Yes	No	N/A																														
<b>Conservation, Energy &amp; Environmental Element:</b>																																	
Impact on Air or Water Resources	Yes	No	X																														
Renewable Energy Source	Yes	No	X																														
Issues:	None																																
<b>Public Services Element:</b>																																	
Population Impacts Projected Population per Census 2010: 2.9 persons per unit Police Impact Standard: 1 officer for every 530 citizens; Water Consumption: 300 gallons per day per person; Wastewater generation: 100 gallons per day per person	<table border="1"> <thead> <tr> <th></th> <th>0</th> <th>Population</th> <th>Impact</th> <th>Consumption</th> <th>Generation</th> </tr> </thead> <tbody> <tr> <td>Maximum</td> <td></td> <td></td> <td>Officers</td> <td>GPD</td> <td>AF</td> </tr> <tr> <td></td> <td>0</td> <td>0</td> <td>0.00</td> <td>0</td> <td>0.0</td> </tr> <tr> <td>Minimum</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>0</td> <td>0</td> <td>0.00</td> <td>0</td> <td>0.0</td> </tr> </tbody> </table>				0	Population	Impact	Consumption	Generation	Maximum			Officers	GPD	AF		0	0	0.00	0	0.0	Minimum							0	0	0.00	0	0.0
	0	Population	Impact	Consumption	Generation																												
Maximum			Officers	GPD	AF																												
	0	0	0.00	0	0.0																												
Minimum																																	
	0	0	0.00	0	0.0																												
Fire Facilities Plan:	Existing: Fire Station #5		Future: Fire Station #8																														
Water Facility Plan:	Source:	City	X Private																														
	Connection:	6' Polyvinylchloride Pipe in 32 <sup>nd</sup> Street																															
Sewer Facility Plan:	Treatment:	City	Septic X Private																														
	Connection:																																
Issues:	None																																
<b>Safety Element:</b>																																	
Flood Plain Designation:	Zone X		Liquefaction Hazard Area: Yes No X																														
Issues:	None																																
<b>Growth Area Element:</b>																																	
Growth Area:	Araby Rd & Interstate 8	Arizona Ave & 16 <sup>th</sup> St	Avenue B & 32 <sup>nd</sup> St.																														
	North End	Pacific Ave & 8 <sup>th</sup> St	Estancia																														
Issues:	None																																

**NOTIFICATION**

- **Legal Ad Published: The Sun** 10/03/14
- **300' Vicinity Mailing:** 09/08/14
- **34 Commenting/Reviewing Agencies noticed:** 09/11/14
- **Neighborhood Meeting:** N/A
- **Hearing Dates:** 10/27/14
- **Comments Due:** 09/22/14

<b>External List (Comments)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>	<b>Comments Attached</b>
Yuma County Airport Authority	NR				
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users	Yes	09/11/14	X		
Yuma County Planning & Zoning	Yes	09/11/14	X		
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	Yes	09/10/14	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	NR				
USDA – NRCS	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Company	NR				
Western Area Power Administration	NR				
<b>City of Yuma Internal List (Conditions)</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Conditions"</b>	<b>Written Conditions</b>	<b>Comments Attached</b>
R.J. Chapman, Police	Yes	09/10/14	X		
Ron Ramirez, Parks	NR				
Damon Chango, Parks	NR				
Andrew McGarvie, Engineering	NR				
Kayla Holiman, Fire	Yes	09/16/14	X		
Kerry Beecher, Building Safety	NR				
Alan Kircher, Building Safety	Yes	09/10/14	X		
Jim Hamersley, ITS	NR				
Josh Scott, Engineering	NR				
Josh Scott, Traffic Engineering	NR				
MCAS / C P & L Office	NR				
Jay Simonton, Utilities	Yes	09/11/14	X		
Joel Olea, Public Works	NR				
Joel Olea, Streets	NR				

<b>Neighborhood Meeting</b>	<b>Comments Available</b>
None Required	N/A
<b>Prop. 207 Waiver Given to Applicant on:</b>	<b>Delivery Method:</b>
September 9, 2014	by U.S. Mail

**PUBLIC COMMENTS RECEIVED: ONE RECEIVED.**

Name:	John Whitaker	Contact Information:	4228 E. 32 <sup>nd</sup> Street
Method of Contact:	Phone	X	FAX
	Email		Letter
			Other
Mr. Whitaker called to find out what the request was for. Staff informed him that it was to remove the AO. Mr. Whitaker is not opposed to the request.			

**ORDINANCE NO. O2014-31**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 154 OF THE YUMA CITY CODE, AS AMENDED, REZONING CERTAIN PROPERTY HEREINBEFORE LOCATED IN THE GENERAL COMMERCIAL/AESTHETIC OVERLAY (B-2/AO) DISTRICT TO THE GENERAL COMMERCIAL (B-2) DISTRICT AND AMENDING THE ZONING MAP TO CONFORM THERETO**

WHEREAS, the City of Yuma Planning and Zoning Commission held a public hearing on October 27, 2014 in Zoning Case No: ZONE-7131-2014 in the manner prescribed by law for the purpose of rezoning a parcel of property hereinafter described to the General Commercial (B-2) District as provided for in Chapter 154 of the Yuma City Code; and,

WHEREAS, due and proper notice of such public hearing was given in the time, form, substance and manner as provided by law, including publication of such notice in the Yuma Sun on October 3, 2014; and,

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission regarding Case No: ZONE-7131-2014 and finds that the recommendation complies with and conforms to the goals and objectives of the City of Yuma 2012 General Plan, as amended.

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

SECTION 1: That the following described real property, depicted in Exhibit A attached and by this reference made a part hereof:

That part of the Southeast quarter of Southwest quarter of the Southwest quarter (SE1/4 SW1/4 SW1/4) Section 6, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, State of Arizona, and more particularly described as follows:

The North 180 feet of the South 280 feet of the East 115 of the Southeast quarter of Southwest quarter of the Southwest quarter (SE1/4 SW1/4 SW1/4) of said Section 6, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, State of Arizona, and more particularly described as follows.

Above Parcel contains 20700 square feet or 0.475 acres more or less.

be placed in the General Commercial (B-2) District, as defined by Chapter 154 of the Yuma City Code, as amended; that upon this Ordinance becoming final, the described real property shall be subject to all rules, regulations and requirements of Chapter 154 of the Yuma City Code, as amended, pertaining to the General Commercial (B-2) District, and that the zoning map adopted under Chapter 154 of the Yuma City Code, as amended, is ordered to be changed and amended to show that the real property described in this Ordinance will be located within the General Commercial (B-2) District.

SECTION 2: That the following condition(s) must be met and/or completed in order for this rezoning to be final:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized "Waiver of Claims under the Private Property Rights Protection Act." The Waiver shall be submitted within thirty (30) calendar days of the effective date of approval of this zoning action and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the zoning action is null and void.

SECTION 3: With the exception of Condition 2, each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS 9-462.01.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

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

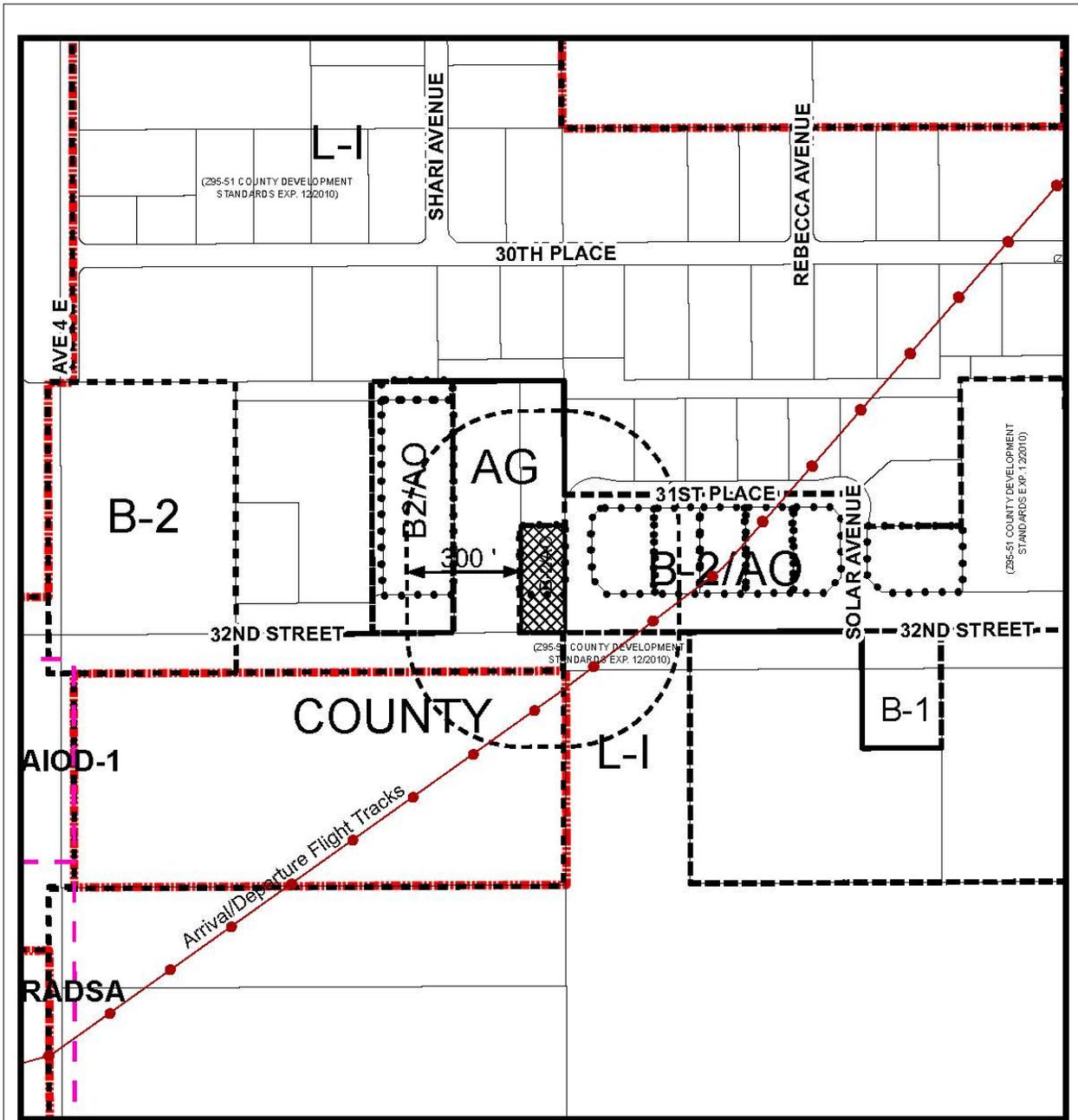
ATTESTED:

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

APPROVED AS TO FORM:

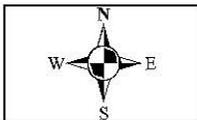
\_\_\_\_\_  
Steven W. Moore  
City Attorney

# Exhibit A

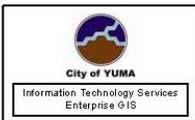


## LOCATION MAP

 LOCATION OF SUBJECT PROPERTY



Prepared by: J.W.B.  
 Checked by:



Date: 09-04-14  
 Revised:  
 Revised:

Case #:  
 ZONE-7131-2014



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014  
**DEPARTMENT:** Finance  
**DIVISION:** Customer Services

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

**TITLE:**  
Amendment to City Code: Chapter 193 Water and Sewers

**SUMMARY RECOMMENDATION:**  
Amend City Code Section 193-67 to assess a delinquency fee, increase the reconnect fee, and increase the dishonored check fee.

**REPORT:**  
The City has been experiencing a high delinquency rate. The City incurs costs for administering the delinquency program and believes the delinquent customers should cover this cost. Therefore, the City is requesting to adopt a delinquency fee, increase the reconnect fee and increase the dishonored check fee.  
  
It is expected that the revenue generated from these fees will cover the costs of the delinquency program.

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 checked="" type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:			DATE:
	Gregory K. Wilkinson			11/12/2014
	REVIEWED BY CITY ATTORNEY:			DATE:
	Richard W. Files for Steven W. Moore			11/12/2014
	RECOMMENDED BY (DEPT/DIV HEAD):			DATE:
Pat Wicks			11/3/2014	
WRITTEN/SUBMITTED BY:			DATE:	
Sharon Willoughby			10/23/2014	

**ORDINANCE NO. O2014-32**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 193 OF THE CITY CODE BY CHANGING UTILITY BILLING TERMS**

WHEREAS, Article XIV, Section 2(a) of the Yuma City Charter provides that the City Council has the power to own and operate any utility and, by ordinance, has the power to provide for its regulation and the fixing of rates to be charged; and,

WHEREAS, the City has encountered a high delinquency rate of utility bills; and,

WHEREAS, the City wants to cover the cost of this delinquent activity; and,

WHEREAS, the cost of the delinquency program should be paid by the delinquent customers; and,

WHEREAS, to better meet the needs of the citizens of the community and to more effectively and efficiently seek to accomplish the goals and objectives that have been established by the City Council.

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

SECTION 1: That the Yuma City Code, Section 193-29(C)(1)(a) be amended to change "\$20" to "\$50".

SECTION 2: That the Yuma City Code, Section 193-29(C)(1)(b) be amended to change "\$45" to "\$100".

SECTION 3: That Section 193-71 be amended to add:

- (B) Bills not paid by the next billing cycle shall have added to them a delinquency fee of \$20.

SECTION 4: That Section 193-71(B) be renumbered to Section 193-71(C).

SECTION 5: That Section 193-73 be amended to change "\$10" to "\$25".

SECTION 6: Any person found guilty of violating any provision of this ordinance shall be guilty of a class one misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for not more than ten (10) days or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein above described.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

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

ATTESTED:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven W. Moore  
City Attorney



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** City Administration

**DIVISION:** Administration

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

**TITLE:**  
Ordinance Amendment: Authorization of Transfer of Land to Arizona Department of Veteran's Services

**SUMMARY RECOMMENDATION:**  
Amend ordinance authorizing conveyance of real property at the southeast corner of Avenue 6E and the 34th Street alignment to the State of Arizona, Department of Veterans' Services.

**REPORT:**  
At the September 17, 2014, City Council meeting, the City Council adopted Ordinance No. O2014-27, which declared property at the southeast corner of Avenue 6E and the 34<sup>th</sup> Street alignment surplus and authorized City staff to convey the property to the State of Arizona, Department of Veterans' Services (DVS), for the construction of a veteran's care facility. Based on information provided from the DVS, City staff previously advised the City Council regarding the size of the facility and the services the facility would provide. City staff also indicated that the deed may contain benchmarks that would revert the property to the City of Yuma (City) if DVS failed to meet those benchmarks or build the facility as proposed.

The City forwarded a proposed deed containing these provisions to DVS, but DVS rejected the proposed deed. Because the conditions of the deed have changed, Ordinance No. O2014-27 must be amended.

After further negotiations, DVS agreed that the property automatically reverts to the City if DVS fails to commence construction within four years after the deed is recorded, and contains a minimum of 30 beds. DVS will also accept a restriction limiting the property's use to the proposed veterans care facility. DVS, however, will not guarantee the size, design, or layout of the facility, nor will DVS guarantee the types of amenities or services the facility will provide. Although DVS may involve the City in the planning process, DVS will not accept a provision that requires DVS to submit and receive the City's approval on construction plans. DVS also will not agree to language in the deed that reverts the property to the City if the facility is not completed within a specific period.

If approved by the Veterans' Administration (VA), construction funding for this project will be made available through the VA's State Home-Construction Grant Program and the State of Arizona, which is characterized by a joint cost-sharing agreement between the VA and the State of Arizona. DVS stated that the federal government is providing 65% of the funds to build the facility and the State of Arizona is

funding the remaining 35%. The Arizona Department of Veterans' Services has agreed that if either the State of Arizona (State) or the United States of America does not allocate funding for the facility for 12 consecutive months after the deed is first recorded, the property shall automatically revert to the City. The State's commitment to fund 35% of the project is only included in the State's budget for FY2014-15. If the State withdraws from its commitment, or does not agree to fund the 35% in future fiscal years, the facility will not be built and the property will revert to the City.

A veteran care facility will benefit the citizens of the City of Yuma and ensure veterans receive quality medical care in the Yuma community.

FISCAL REQUIREMENTS	CITY FUNDS:	\$5,000.00	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:	\$5,000.00		
	FISCAL IMPACT STATEMENT: Costs include recording fees and legal fees associated with the legal review of deed language.			
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 <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		11/12/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files for Steven W. Moore		11/12/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Ricky Rinehart		11/6/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Teresa Blackburn		11/06/14		

**ORDINANCE NO. O2014-33**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING THE CONDITIONS OF ORDINANCE NO. O2014-27 WHICH AUTHORIZED THE CONVEYANCE OF CERTAIN REAL PROPERTY TO THE STATE OF ARIZONA, DEPARTMENT OF VETERANS' SERVICES, FOR THE PURPOSE OF CONSTRUCTING A VETERANS' CARE FACILITY**

WHEREAS, Ordinance No. O2014-27 was adopted by the City Council on September 17, 2014; and,

WHEREAS, conditions regarding the conveyance of real property located at the southeast corner of the Avenue 6E and 34<sup>th</sup> Street alignment to the State of Arizona, Department of Veterans' Services have subsequently changed; and,

WHEREAS, due to the changes, Ordinance No. O2014-27 needs to be amended to reflect the conditions of the conveyance.

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

SECTION 1: Section 3 of Ordinance No. O2014-27 is amended to read as follows:

“Conveyance of the Property by deed from the City of Yuma as grantor, to the State of Arizona, Department of Veteran’s Affairs, as grantee, is authorized under the condition that fee title to the Property automatically reverts to the City of Yuma if commencement of construction of the proposed veterans’ care facility on the Property does not occur within four years from the date the Special Warranty Deed is first recorded in the official records of Yuma County, Arizona.”

SECTION 2: All other provisions of Ordinance No. O2014-27 not otherwise amended by this Ordinance shall remain in full force and effect.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

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

ATTESTED:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven W. Moore  
City Attorney



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014

**DEPARTMENT:** City Administration

**DIVISION:** Administration

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

**TITLE:**  
Grant of Easement and Real Property Exchange: Yuma Elementary School District and JV Farms, Inc.

**SUMMARY RECOMMENDATION:**  
Authorize the granting of a temporary (15 year) easement for school access, parking, pick-up and drop-off on City-owned real property (a remnant vacant lot and a portion of the adjacent alley to be vacated with a permanent utilities and access easement reserved to the City), and the subsequent exchange of of the described real property (subject to the easements) for necessary right-of-way owned by JV Farms, Inc., at the southwest corner of 16th Street and 7th Avenue.

**REPORT:**

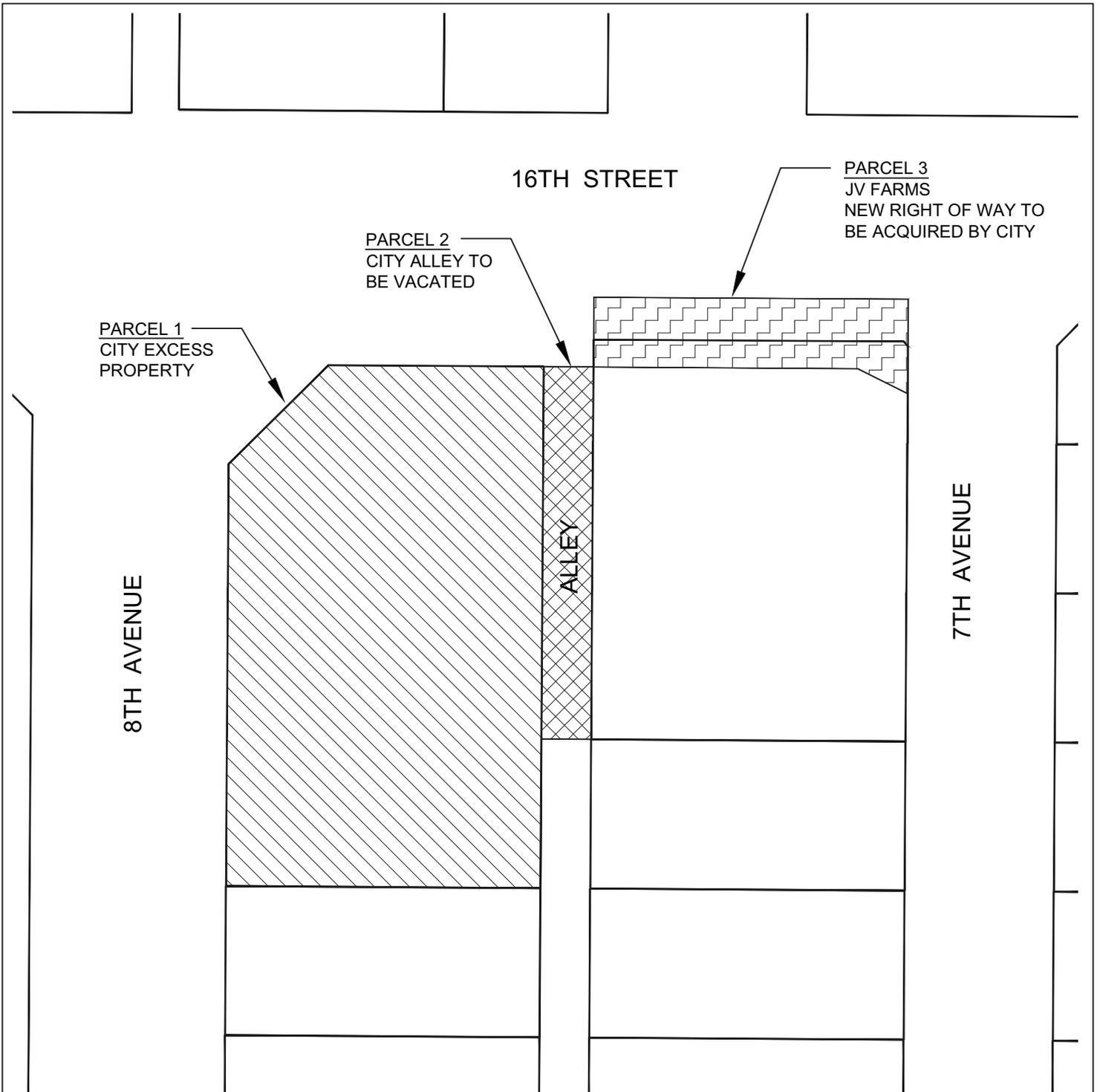
After review of future roadway plans it has been determined that the City requires approximately 1,701 square feet of 16<sup>th</sup> Street frontage as additional right-of-way at the southwest corner of 16<sup>th</sup> Street and 7<sup>th</sup> Avenue. The parcel from which the right-of-way will be acquired is owned by JV Farms, Inc. (JV Farms). The necessary right-of-way is depicted as Parcel 3 on the attached location map.

The City currently owns a vacant, remnant parcel west of the JV Farms property (depicted as Parcel 1 on the location map) and will vacate a portion of the alley (depicted as Parcel 2 on the location map) while reserving a utilities and access easement on the vacated portion of the alley.

In order to acquire the necessary right-of-way, JV Farms and the City will exchange the described properties. Prior to the exchange, the City will grant a temporary (15 year) access easement on the City owned real property (Parcel 1 and Parcel 2) to Yuma Elementary School District (District). The temporary easement will allow school access, parking, pick-up and drop off for the Alice Byrne Elementary School located immediately west of Parcel 1.

The proposed ordinance authorizes the grant of temporary easement to the District, the vacating of the described portion of the alley while reserving a permanent utilities and access easement, declares the City owned parcels surplus for City use, and authorizes the exchange of the properties, subject to the easements, between the City and JV Farms. The exchange will also facilitate redevelopment of the corner and return surplus City property to the tax rolls.

FISCAL REQUIREMENTS	CITY FUNDS: \$1,500.00	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: \$1,500.00	
	FISCAL IMPACT STATEMENT: Fees necessary for escrow and recording.	
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 <input type="checkbox"/> Document to be recorded	
SIGNATURES	CITY ADMINISTRATOR: Gregory K. Wilkinson	DATE: 11/13/2014
	REVIEWED BY CITY ATTORNEY: Richard W. Files for Steven W. Moore	DATE: 11/13/2014
	RECOMMENDED BY (DEPT/DIV HEAD): Ricky Rinehart	DATE: 11/12/2014
	WRITTEN/SUBMITTED BY: Deb Vining/Teresa Blackburn	DATE: 11/12/2014



PARCEL 1  
CITY EXCESS  
PROPERTY

PARCEL 2  
CITY ALLEY TO  
BE VACATED

PARCEL 3  
JV FARMS  
NEW RIGHT OF WAY TO  
BE ACQUIRED BY CITY

8TH AVENUE

ALLEY

7TH AVENUE

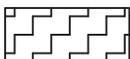
16TH STREET



PARCEL 1



PARCEL 2



PARCEL 3

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

# LOCATION MAP



Prepared by: **JESUS GARCIA**  
Checked by: **DEB VINING**

**CITY OF YUMA  
DEPARTMENT OF  
PUBLIC WORKS  
ENGINEERING DIV.**

DATE: **8-14-2014**  
SCALE: **N.T.S**  
REVISED:

PROJECT:

**ORDINANCE NO. O2014-34**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING THE GRANTING OF A TEMPORARY EASEMENT TO YUMA ELEMENTARY SCHOOL DISTRICT FOR ACCESS, PARKING, AND OPERATION OF A DROP-OFF AND PICK-UP AREA ON VACANT CITY-OWNED PROPERTY LOCATED AT 1607 S. 8<sup>TH</sup> AVENUE AND A PORTION OF THE ADJACENT ALLEY, AUTHORIZING AND DIRECTING THAT SUBJECT TO THE TEMPORARY EASEMENT, THE CITY-OWNED REAL PROPERTY, HEREAFTER DESCRIBED, BE DECLARED SURPLUS, TOGETHER WITH RESERVING A UTILITY EASEMENT AND VACATING A PORTION OF THE ALLEY HEREAFTER DESCRIBED, AND AUTHORIZING AND DIRECTING THAT BOTH THE CITY SURPLUS PROPERTY AND THE VACATED PORTION OF THE ALLEY, SUBJECT TO THE DESCRIBED TEMPORARY AND PERMANENT EASEMENTS, BE EXCHANGED FOR NECESSARY 16<sup>TH</sup> STREET RIGHT-OF-WAY, HEREAFTER DESCRIBED AND LOCATED AT 701 W. 16<sup>TH</sup> STREET, FOR THE REASON THAT THE RIGHT-OF-WAY TO BE ACQUIRED BY THE CITY IS NECESSARY TO IMPROVE THE PUBLIC ROADWAY AND UTILITY INFRASTRUCTURE AND OTHER PUBLIC PURPOSES**

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

WHEREAS, the Yuma Elementary School District of Yuma County seeks a temporary (15 year) easement on vacant, City-owned real property next to Alice Byrne Elementary School; and,

WHEREAS, the temporary easement will be used for school access, parking, and operation of a drop-off and pick-up area; and,

WHEREAS, the City has dedicated and will retain the necessary right-of-way for ultimate build-out and reconstruction of 16<sup>th</sup> Street from the vacant, City-owned parcel of real property; and,

WHEREAS, subject to the temporary easement, this Ordinance will declare the remnant vacant property described in Exhibit A surplus for City use; and,

WHEREAS, granting the temporary easement to the Yuma Elementary School District serves a public purpose, and will provide a public benefit for the safety, health and welfare of Yuma citizens; and,

WHEREAS, the City is the owner of the alley, east of and adjacent to the City-owned parcel, a portion of which is described in Exhibit B, and through this Ordinance, will vacate the described portion of the alley after granting the temporary easement to the Yuma Elementary School District on the Exhibit A and Exhibit B property, and reserving a permanent easement for public utilities and City access in the vacated portion of the alley; and,

WHEREAS, the City has identified the acquisition of a portion of the real property owned by JV Farms, Inc. (JV Farms), located in the Holmes Addition subdivision and described in Exhibit C (ROW Property) as necessary for 16<sup>th</sup> Street public roadway and utility improvements; and,

WHEREAS, collectively, the vacated portion of the alley with the temporary easement and reserved utility easement and the vacant, surplus property with the temporary easement to the Yuma Elementary School District shall be referred to as the “City Exchange Property”; and,

WHEREAS, the City seeks to acquire title to the ROW Property from JV Farms through an exchange of the City Exchange Property for the ROW Property; and,

WHEREAS, subject to the described easements, JV Farms seeks to acquire title to the City Exchange Property from the City through an exchange of the ROW Property for the City Exchange Property,

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

SECTION 1: A temporary easement to the Yuma Elementary School District of Yuma County for access, parking, and operation of a drop-off and pick-up area on the City-owned real property described in Exhibit A and that portion of the alley described in Exhibit B is authorized for the benefit of the public as a public purpose.

SECTION 2: Subject to the granting of the temporary easement to the Yuma Elementary School District and the reservation of a permanent access and utility easement, the portion of the alley described in Exhibit B, shall be vacated pursuant to Arizona Revised Statutes (A.R.S.) § 28-7205 upon the recording of a deed reserving the easement and conveying the described property to JV Farms.

SECTION 3: The vacated portion of the alley described in Exhibit B and the City-owned property described in Exhibit A is declared surplus for City use and authorized for exchange with JV Farms, by deed, with reservation of an access and utility easement in, over, through and under the vacated portion of the alley, and with the covenant that JV Farms shall call out the Yuma County Recorder’s Fee Number for the described utility and access easement on any future lot tie/lot split or plat.

SECTION 4: It is deemed necessary and essential, as a matter of public necessity and public health, safety and welfare, that the ROW Property, described in Exhibit C, attached and made a part of this ordinance, be acquired by the City through an exchange for the City-owned parcels of real property described in Exhibit A and Exhibit B (subject to the hereafter described easements, the “City Exchange Property”), attached and made a part of this ordinance, as the Exhibit C property is required to extend and improve public roadway and utility infrastructure for the public interest of the City and would be of public benefit.

SECTION 5: City staff is authorized and directed to perform all acts necessary to effect the granting of the temporary easement, the reservation of the permanent utility easement, the vacating of the described portion of the alley, and the exchange of the real properties described in Exhibits A, B, and C.

SECTION 6: The disbursing officer of the City of Yuma is authorized and directed to pay half of all sums necessary to exchange the properties described in Exhibits A, B and C, including

recording fees, escrow, title insurance for the City acquisition, closing and other costs necessary in the acquisition and exchange of the properties, but excluding the cost of any lot tie/lot split whose cost shall be the sole expense of JV Farms.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

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

ATTESTED:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven W. Moore  
City Attorney

## **Exhibit A**

### **Legal Description- City Exchange Parcel**

That portion of Block 1 according to the HOLMES ADDITION Subdivision Plat in Book 3 of Plats Page 13 records of Yuma County, Arizona more particularly described as follows:

New Parcel A as shown on Calvet Lot Tie as recorded in Book 22 of Plats, Page 20, under Fee No. 2006-02019 records of Yuma County, Arizona

Containing 255792 square feet or 0.5921 acres more or less

## **Exhibit B**

### **Legal Description- Portion of Alley**

That part of the alley being Twenty feet (20') in width located between lots 1, 2, 3, 4, 5, and 6 of Block 1, Holmes Addition, according to the plat of record in the office of the County Recorder of Yuma County, Arizona in book 3 of Plats, Page 13.

Except: City of Yuma, Reserves the right for a Public Utility easement of that vacated part of the alley as described above.

Except: The North Twenty Eight feet (28') of said alley to be dedicated to the City of Yuma for addition Right of Way.

Containing 1,808 square feet, more or less

## Exhibit C

### Legal Description- JV Farms Exchange Parcel

That portion of Block 1 according to the HOLMES ADDITION Subdivision Plat in Book 3 of Plats Page 13 records of Yuma County, Arizona more particularly described as follows:

With Bases of Bearing from De Anza Plaza Lot Tie as recorded in Book 18 of Surveys Page 100 records of Yuma County , Arizona.

Beginning at the Original Northeast corner Lot 1, Block 1;

Thence S00°00'10"W along the East line of said Block 1 a distance of 53.00 feet to the TRUE POINT OF BEGINNING said point lies N00°00'10"E a distance of 125.36 feet from Northeast corner of Lot 7 of said Block 1;

Thence N 44°59'50"W a distance of 35.35 feet which lies 28.00 feet southerly of the North line of said Block 1;

Thence N89°58'32"W parallel to and 28.0 feet southerly of Block 1 a distance of 101.49 feet to a point on the East line of the alley in said Block 1;

Thence N00°00'05"E along the east line of the alley in Block 1 a distance of 11.00 feet to a point that lies S00°00'05"W a distance of 17.00 feet from the Northwest corner of Lot 1 of said Block 1;

Thence S89°58' 32"E parallel to and 17.00 feet southerly on the North Line of Block 1 a distance of 124.84 feet;

Thence S39°06'34"E a distance of 2.61 feet to ADOT Brass Cap;

Thence S00°00'10"W a distance of 33.96 feet to the TRUE POINT OF BEGINNING

Area containing 0.039 acres and 1,701.97 square feet, more or less.



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** November 19, 2014  
**DEPARTMENT:** Community Development  
**DIVISION:** Community Planning

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

**TITLE:**  
 Major General Plan Amendment: 5<sup>th</sup> Avenue and 16<sup>th</sup> Street

**SUMMARY RECOMMENDATION:**

Amend the City of Yuma General Plan to change the land use designation from Mixed Use and Low Density Residential to Commercial, for property located in proximity to the 5<sup>th</sup> Avenue and 16<sup>th</sup> Street intersection. The applicants are the Kenyons Market, Inc. and the City of Yuma (GP-6521-2014).

**REPORT:**

**PLANNING AND ZONING COMMISSION’S RECOMMENDATION:**

On October 13, 2014, the Planning and Zoning Commission voted to recommend APPROVAL (7-0, of the General Plan land use amendment request to change the land use designation from Mixed Use and Low Density Residential to Commercial. As required by state statute, the City of Yuma Planning and Zoning Commission held an earlier public hearing on this item on September 8, 2014, in order to take additional public comment.

**PUBLIC COMMENTS – EXCERPT FROM PLANNING AND ZONING COMMISSION MINUTES (10/13/14):**

**APPLICANT / APPLICANT’S REPRESENTATIVE**

“David Beckham, 10611 N. Hayden Road, Scottsdale, Arizona, said the applicant was waiting for the road to be widened so they could redevelop the property.

“Clint Underhill – Planning and Zoning Commissioner asked if the subject properties were part of the 4th Avenue and 16<sup>th</sup> Street redevelopment plan. Jennifer Albers, Principal Planner, said the area of the General Plan Amendment was in the southwest of the redevelopment area. Underhill asked if any redevelopment of these parcels would be tied into the redevelopment plan. Albers said yes.”

**PUBLIC COMMENT**

None

**MOTION**

Motion by Hamel, second by Koopmann, to APPROVE Case Number GP-6521-2014. Motion carried unanimously (7-0).

**PUBLIC COMMENTS – EXCERPT FROM PLANNING AND ZONING COMMISSION MINUTES (9/8/14):**

**“Dave Koopmann– Planning and Zoning Commissioner,** asked if staff had enough right-of-way. **Jennifer Albers, Principal Planner,** said some of the properties had been acquired for right-of-way for future intersection upgrades.

**“Del Cave – Planning and Zoning Commissioner** asked if the city had acquired all of the property needed to allow this project to move forward. **Albers** said the City was in the process of acquiring all of the property. **Deb Vining, Right-of-Way Agent,** said the City was actively working to obtain additional right-of-way in this area. There is an agreement with Kenyons Market to acquire what is needed and trade some property that is not required.

**“Koopmann** asked if there were some properties being traded after obtaining right-of-way. **Vining** said yes, after the acquisition of right-of-way, staff was working to tie neighboring lots together.

**“Cave** asked if all of the property owners agreed to improve this area. **Albers** said the City went through the process for the 4<sup>th</sup> Avenue Redevelopment Area, which involved quite a number of the property owners. That project was broader in scope. This general plan amendment supports that action. **Cave** asked about the individual property owners within the general plan amendment area. **Albers** said there were two property owners in this request – the City of Yuma and Kenyons Market, who had already been a participant in the 4<sup>th</sup> Avenue Redevelopment area.

#### **APPLICANT / APPLICANT’S REPRESENTATIVE**

**“Noah Cullis, Senior Planner,** said the agent for Kenyons Market was unable to make it out to the meeting, due to flooding in Phoenix, and added that he would answer any questions from the Commission.

#### **PUBLIC COMMENT**

**“Tom Pancrazi, 350 W. 16<sup>th</sup> Street,** said this was a part of a large project, and Staff has been doing a great job working with all of the property owners. He felt that the City was doing good work in this area and when this project is complete, people in Yuma would be proud.

**“Richard Sorenson – Chairman, Planning and Zoning Commission,** said the next meeting on this case would be held October 13, 2014 at the City of Yuma Public Works Training Room.

**“Koopmann** said this project should offer a lot of opportunities for redevelopment.”

#### **PLANNING AND ZONING COMMISSION STAFF REPORT – ATTACHED**

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$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:
	Gregory K. Wilkinson	11/12/2014
	REVIEWED BY CITY ATTORNEY:	DATE:
	Richard W. Files for Steven W. Moore	11/12/2014
	RECOMMENDED BY (DEPT/DIV HEAD):	DATE:
Laurie L. Lineberry	10/23/2014	
WRITTEN/SUBMITTED BY:	DATE:	
Jennifer L. Albers	10/16/2014	



**STAFF REPORT TO THE PLANNING AND ZONING COMMISSION  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
COMMUNITY PLANNING DIVISION  
CASE TYPE – GENERAL PLAN AMENDMENT**

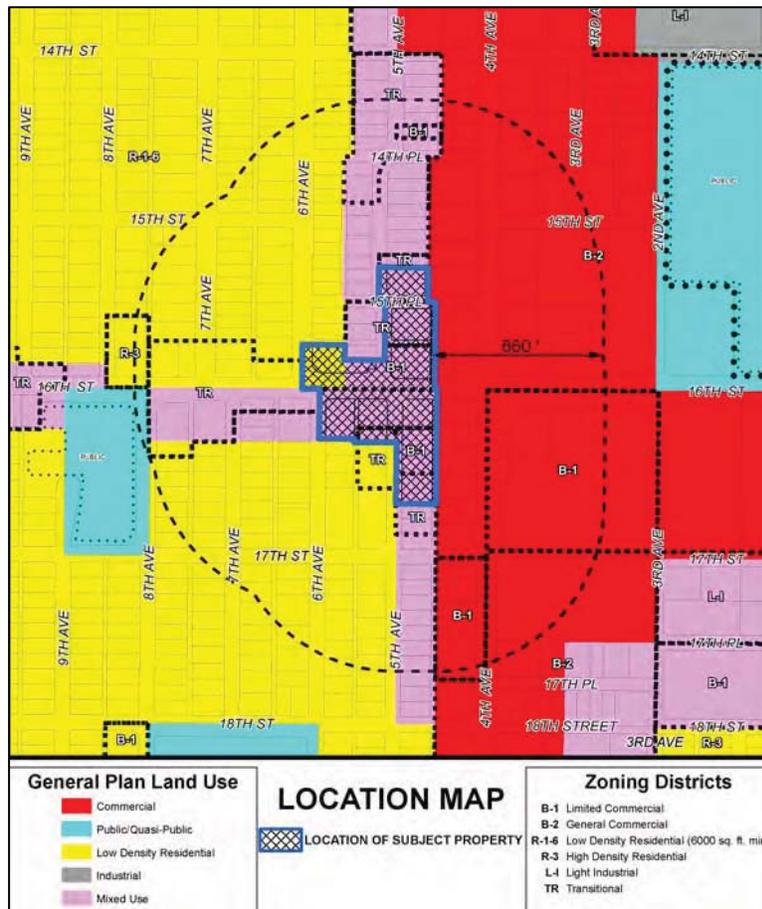
**Hearing Date:** October 13, 2014

**Case Number:** GP-6521-2014

**Project Description/Location:** This is a Major General Plan Amendment request by Kenyons Market Inc., and the City of Yuma to change the land use designation from Mixed Use and Low Density Residential to Commercial for approximately 5.6 acres. The requested land use change is for 12 parcels located in proximity to the intersection of 5<sup>th</sup> Ave. & 16<sup>th</sup> St.

	Existing Zoning	Existing Land Use	Planned Land Use
<b>Site</b>	Low Density Residential (R-1-6), Transitional (TR), Limited Commercial (B-1) and General Commercial (B-2)	Offices and Retail	Mixed Use and Low Density Residential
<b>North</b>	Low Density Residential (R-1-6) and Transitional (TR)	Single Family Residential	Mixed Use and Low Density Residential
<b>South</b>	Low Density Residential (R-1-6) and Transitional (TR)	Single Family Residential and Off-site Parking	Mixed Use and Low Density Residential
<b>East</b>	General Commercial (B-2)	Commercial and Offices	Commercial
<b>West</b>	Low Density Residential (R-1-6) and Transitional (TR)	Single Family Residential, Offices and a vacant lot	Mixed Use and Low Density Residential

**Location Map**



**Prior site actions:** Ordinance 449 Adopted 11/6/45, Ordinance 567 Adopted 3/4/52, Ordinance 568 Adopted 3/4/52, C-6-69 9/25/69 (Denied Res A to Services), C-2-76 3/3/76 (Approved Services to Business A), C-20-76 12/1/76 (Approved Res A to Services), C-2-75 (Withdrawn Services to Business A), Z78-32 12/6/78 (Denied Res A to Services), Z82-1 2/17/82 (Approved Services to Business A), Z83-17 8/3/83 (Approved Res A to TR), Z86-18 9/17/86 (Approved Res A to TR), Z90-19 4/17/91 (Denied Res A to TR), Z95-59 2/21/96 (Approved TR to B-1), Z2005-42 5/3/06 (Approved R-1-6 to TR), Z2011-009 2/15/02 (Approved TR to B-1), S95-33 Lot Tie, S89-14 Lot Tie, Yuma North End - 16<sup>th</sup> Street & 4<sup>th</sup> Avenue Redevelopment Plan R2013-10 1/16/13

**Public Comment September 8, 2014 Public Hearing:**

At the public hearing on September 8, 2014, the following person spoke in support of the request:

- Tom Pancrazi, 350 W. 16<sup>th</sup> Street, said this was a part of a large project, and Staff has been doing a great job working with all of the property owners. He felt that the City was doing good work in this area and when this project is complete, people in Yuma would be proud.

**Staff Recommendation:** Staff recommends the Planning and Zoning Commission APPROVE the request to change the land use for approximately 5.6 acres from Mixed Use and Low Density Residential to Commercial.

**Suggested Motion:** Move to APPROVE the request to change the land use designation for approximately 5.6 acres from Mixed Use and Low Density Residential to Commercial for properties located in proximity to the intersection of 5<sup>th</sup> Avenue and 16<sup>th</sup> Street.

**Staff Analysis:** This is a Major General Plan Amendment request by Kenyons Market Inc., and the City of Yuma to change the land use designation from Mixed Use and Low Density Residential to Commercial for approximately 5.6 acres. The requested land use change is for 12 parcels located in proximity to the intersection of 5<sup>th</sup> Avenue and 16<sup>th</sup> Street.

The existing *Low Density Residential* land use designation supports the following types of zoning: Suburban Ranch (SR-1), Residential Estates (RE-12, RE-18, RE-35), Low Density Residential (R-1-5, R-1-6, R-1-8, R-1-12, R-1-20, and R-1-40) and Residence-Manufactured Housing (R-MH) Districts.

The existing *Mixed Use* land use designation supports the following types of zoning: Low Density Residential (R-1-6), Medium Density Residential (R-2, R-2-5), Residence Manufactured Housing (R-MH), Manufactured Housing Subdivision (MHS), Transitional (TR), Limited Commercial (B-1) and Industrial Park (I-P).

The proposed *Commercial* land use designation supports the following types of zoning: Transitional (TR), Limited Commercial (B-1), General Commercial (B-2), and Business Park (BP) Districts.

It is the intent of the property owners to redevelop the properties for various commercial projects with the General Commercial (B-2) zoning district in accordance with the Yuma North End - 16<sup>th</sup> Street & 4<sup>th</sup> Avenue Redevelopment Plan.

The Yuma North End - 16<sup>th</sup> Street & 4<sup>th</sup> Avenue Redevelopment Plan is a plan to address the redevelopment of Yuma's Downtown and the 4<sup>th</sup> Avenue and 16<sup>th</sup> Street Corridors. The primary objective is to improve the area through development and rehabilitation of substandard and deficient buildings. Within the 16<sup>th</sup> Street Corridor segment of the Plan the primary focus is encouraging unique and attractive retail and offices at the 16<sup>th</sup> Street and 4<sup>th</sup> Avenue intersection. Moving away from this intersection, the intent is to provide a mix of financial institutions, offices, municipal

uses and service retail and restaurants. The General Plan amendment area is to the west of the Core intersection and is included in the 16<sup>th</sup> Street Corridor area.

**1. Does the proposed amendment impact any elements of the General Plan?**

No The elements of the General Plan will not be impacted by the proposed amendment.

**Transportation Element:**

**FACILITY PLANS**

Major Roadways Plan	Planned	Existing
16 <sup>th</sup> Street – Principal Arterial Constrained	49 Foot HW	40 and 45 foot HW
5 <sup>th</sup> Avenue – Local	29 Foot HW	30 foot HW
Median Covenant	Yes	

**2. Does the proposed amendment impact any of the facility plans?**

No The change in land use will not significantly impact any of the facility plans.

**3. Is the proposed amendment in conflict with Council’s prior actions?**

No The amendment request supports the City Council adopted Yuma North End - 16<sup>th</sup> Street & 4<sup>th</sup> Avenue Redevelopment Plan.

**Scheduled Public Hearings:**

- City of Yuma Planning and Zoning Commission: September 8, 2014
- City of Yuma Planning and Zoning Commission: October 13, 2014
- City of Yuma City Council: November 19, 2014

**Public Comments Received:** See Attachment A  
**Agency Comments:** None Received  
**Neighborhood Meeting Comments:** See Attachment C

**Final staff report delivered to applicant on:** 9/16/14

- Applicant agreed with staff’s recommendation:
- Applicant did not agree with staff’s recommendation:
- If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

**Attachments** (Attachments B to D – Planning and Zoning Commission only)

A	B	C	D
Public Comments	Staff Worksheet	Neighborhood Meeting Comments	Aerial Photo

**Project Planner:** Jennifer L. Albers, AICP Principal Planner [Jennifer.Albers@YumaAZ.gov](mailto:Jennifer.Albers@YumaAZ.gov)

**Reviewed By:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
 Bruce Heckman, Planning Manager

**Approved By:**  **Date:** 9-16-14  
 Laurie L. Lineberry, AICP, Director of Department of Community Development

**ATTACHMENT A  
PUBLIC COMMENTS**

Name:	Russell McCloud			Contact Information:	rmcccloud@theriver.com					
Method of Contact:	Phone	<input type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input checked="" type="checkbox"/>	Letter	<input type="checkbox"/>	Other	<input type="checkbox"/>
<p>Comment: Good day to you Jennifer!  Please forward any comments you receive on this plan amendment for the 4<sup>th</sup>/5<sup>th</sup> Avenue and 16<sup>th</sup> Street area. I am interested in seeing it succeed, it is the right plan for that area.  Thank you!</p>										
Name:	Leanne Worthen			Contact Information:						
Method of Contact:	Phone	<input checked="" type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input type="checkbox"/>	Letter	<input type="checkbox"/>	Other	<input type="checkbox"/>
<p>Comment: Requested information on boundary of amendment. Has no issue with proximity to Commercial development.</p>										

**ATTACHMENT B  
STAFF WORKSHEET**



**STAFF RESEARCH – GENERAL PLAN AMENDMENT**

**CASE #: GP-6521-2014  
CASE PLANNER: JENNIFER L. ALBERS**

**I. PROJECT DATA**

Project Location:	Intersection of 5 <sup>th</sup> Avenue and 16 <sup>th</sup> Street						
Parcel Number(s):	665-34-013, -014, -015, -016, -040, -045, 665-26-344, -345, -346, -352, -052, -064						
Parcel Size(s):	13,156 sf, 14,280 sf, 7,140 sf, 14,280 sf, 19,165 sf, 17812 sf 6,839 sf, 6,775 sf, 6,908 sf, 19,394 sf, 19,218 sf, 16,620 sf						
Total Acreage:	3.7						
Proposed Dwelling Units:	Maximum:	0	Minimum:	0			
Address:	470, 475, 480, 490, 551 W. 16 <sup>th</sup> Street 1233 W. 17 <sup>th</sup> Place, 1660 S. 4 <sup>th</sup> Avenue, 1625 S. 6 <sup>th</sup> Avenue						
Applicant:	City of Yuma and Kenyons Market Inc.						
Applicant's Agent:	David Beckham						
Land Use Conformity Matrix:	Current Zoning District Conforms:			Yes	No	X	
Zoning Overlay:	Public	AO	Auto	B&B	Historic	None	X

Airport	Noise Contours	65-70	70-75	75+	APZ1	APZ2	CLEAR ZONE
	<b>Existing Zoning</b>			<b>Existing Land Use</b>		<b>Planned Land Use</b>	
<b>Site</b>	Low Density Residential (R-1-6), Transitional (TR), Limited Commercial (B-1) and General Commercial (B-2)			Offices and Retail		Mixed Use and Low Density Residential	
<b>North</b>	Low Density Residential (R-1-6) and Transitional (TR)			Single Family Residential		Mixed Use and Low Density Residential	
<b>South</b>	Low Density Residential (R-1-6) and Transitional (TR)			Single Family Residential and Off-site Parking		Mixed Use and Low Density Residential	
<b>East</b>	General Commercial (B-2)			Commercial and Offices		Commercial	
<b>West</b>	Low Density Residential (R-1-6) and Transitional (TR)			Single Family Residential, Offices and a vacant lot		Mixed Use and Low Density Residential	

<b>Prior Cases or Related Actions:</b>				
<u>Type</u>	<u>Conforms</u>			<u>Cases, Actions or Agreements</u>
Pre-Annexation Agreement	Yes		No	N/A
Annexation	Yes	X	No	Ordinance 449 Adopted 11/6/45, Ordinance 567 Adopted 3/4/52, Ordinance 568 Adopted 3/4/52
General Plan Amendment	Yes		No	X
Development Agreement	Yes		No	N/A
Rezone	Yes	X	No	C-6-69 9/25/69 (Denied Res A to Services), C-2-76 3/3/76 (Approved Services to Business A), C-20-76 12/1/76 (Approved Res A to Services), C-2-75 (Withdrawn Services to Business A), Z78-32 12/6/78 (Denied Res A to Services), Z82-1 2/17/82 (Approved Services to Business A), Z83-17 8/3/83 (Approved Res A to TR), Z86-18 9/17/86 (Approved Res A to TR), Z90-19 4/17/91 (Denied Res A to TR), Z95-59 2/21/96 (Approved TR to B-1), Z2005-42 5/3/06 (Approved R-1-6 to TR), Z2011-009 2/15/02 (Approved TR to B-1)
Subdivision	Yes		No	S95-33 Lot Tie, S89-14 Lot Tie
Conditional Use Permit	Yes		No	N/A

Pre-Development Meeting	Yes		No		Date: not held
Enforcement Actions	Yes	X	No		04-953 & 04-233 (Closed)
Land Division Status:	Legal lots of record				
Irrigation District:	None				
Adjacent Irrigation Canals & Drains:	None				
Water Conversion: (5.83 ac ft/acre)	0.00 Acre Feet a Year			Highlight & F9 to compute field	
Water Conversion Agreement Required	Yes		No	X	

## II. CITY OF YUMA GENERAL PLAN

<b>Land Use Element:</b>									
Land Use Designation:			Mixed Use and Low Density Residential						
Noise Contour:			None		Overlay/Specific Area:			N/A	
Issues:			Adjacent to single family homes						
Historic District:	Brinley Avenue		Century Heights		Main Street		None		X
Historic Buildings on Site:	Yes		No	X					
<b>Transportation Element:</b>									
<b>FACILITY PLANS</b>									
Major Roadways Plan				Planned			Existing		
16 <sup>th</sup> Street – Principal Arterial Constrained				49 Foot HW			40 and 45 foot HW		
5 <sup>th</sup> Avenue – Local				29 Foot HW			30 foot HW		
Median Covenant				Yes					
Gateway Route	X	Scenic Route		Hazardous Cargo Route	X	Truck Route	X		
Bicycle Facilities Master Plan			5 <sup>th</sup> Avenue – Bike Route						
YCAT Transit System			4 <sup>th</sup> Avenue – Red Route						
Issues:									
<b>Parks, Recreation and Open Space Element:</b>									
Parks and Recreation Facility Plan									
Neighborhood Park:	Existing: Joe Henry Optimist Park				Future: Joe Henry Optimist Park				
Area Park	Existing: Kennedy Park				Future: Kennedy Park				
Linear Park:	Existing: East Main Canal Linear Park				Future: East Main Canal Linear Park				
Issues:	None								
<b>Housing Element:</b>									
Special Need Household:	N/A								
Issues:	None								
<b>Redevelopment Element:</b>									
Planned Redevelopment Area:									
Adopted Redevelopment Plan:	North End/16 <sup>th</sup> St/4 <sup>th</sup> Ave:		X	Carver Park:		None:			
Conforms:	Yes	X	No						
<b>Conservation, Energy &amp; Environmental Element:</b>									
Impact on Air or Water Resources	Yes		No	X					
Renewable Energy Source	Yes		No	X					
Issues:									
<b>Public Services Element:</b>									

<b>Population Impacts</b> Projected Population per Census 2010: 2.9 persons per unit Police Impact Standard: 1 officer for every 530 citizens; Water Consumption: 300 gallons per day per person; Wastewater generation: 100 gallons per day per person		<table border="1"> <tr> <th>Dwelling Units</th> <th>Projected Population</th> <th>Police Impact</th> <th colspan="2">Water Consumption</th> <th>Wastewater Generation</th> </tr> <tr> <td>Maximum</td> <td>0</td> <td>0.00</td> <td>GPD</td> <td>AF</td> <td>GPD</td> </tr> <tr> <td>0</td> <td>0</td> <td>0.00</td> <td>0</td> <td>0.0</td> <td>0</td> </tr> <tr> <td>Minimum</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>0</td> <td>0</td> <td>0.00</td> <td>0</td> <td>0.0</td> <td>0</td> </tr> </table>					Dwelling Units	Projected Population	Police Impact	Water Consumption		Wastewater Generation	Maximum	0	0.00	GPD	AF	GPD	0	0	0.00	0	0.0	0	Minimum						0	0	0.00	0	0.0	0
Dwelling Units	Projected Population	Police Impact	Water Consumption		Wastewater Generation																															
Maximum	0	0.00	GPD	AF	GPD																															
0	0	0.00	0	0.0	0																															
Minimum																																				
0	0	0.00	0	0.0	0																															
Fire Facilities Plan:	Existing: Fire Stations 1 and 3			Future: Fire Stations 1 and 4																																
Water Facility Plan:	Source:	City	X	Private	Connection:	16 <sup>th</sup> Street 10" & 16" water lines and 5 <sup>th</sup> Avenue 12" water line																														
Sewer Facility Plan:	Treatment:	City	X	Septic	Private	Connection: 4 <sup>th</sup> /5 <sup>th</sup> Ave alley 8" sewer line																														
Issues:	None																																			
<b>Safety Element:</b>																																				
Flood Plain Designation:	500 Year Flood			Liquefaction Hazard Area:	Yes	No X																														
Issues:	None																																			
<b>Growth Area Element:</b>																																				
Growth Area:	Araby Rd & Interstate 8		Arizona Ave & 16 <sup>th</sup> St		Avenue B & 32 <sup>nd</sup> St.																															
	North End	Pacific Ave & 8 <sup>th</sup> St	Estancia	None	X																															
Issues:																																				

**NOTIFICATION**

- Legal Ad Published: The Sun 8/23/14
- Display Ad Published: 8/23/14
- 660' Vicinity Mailing: 8/12/14
- 54 Commenting/Reviewing Agencies noticed: 6/24/14
- Site Posted: 7/14/14
- Neighborhood Meeting: 7/27/14
- Hearing Dates: 9/8/14, 10/13/14, 11/19/14
- Comments Due: 8/26/14

<b>External List</b>	<b>Response Received</b>	<b>Date Received</b>	<b>"No Comment"</b>	<b>Written Comments</b>
Yuma Metropolitan Planning Organization (ARS)	NR			
Yuma County Engineering	NR			
Yuma County Flood Control District	NR			
Yuma County Planning & Zoning (ARS)	NR			
Yuma County Public Works	NR			
Yuma County Airport Authority	NR			
Yuma County Chamber of Commerce	NR			
Greater Yuma Econ. Development Corp.	NR			
Yuma County School Superintendent	NR			
YUHS District #70 (ARS)	NR			
Yuma Elementary School District #1 (ARS)	NR			
Crane School District #13 (ARS)	NR			
City of San Luis (ARS)	NR			
City of Somerton (ARS)	NR			
Imperial County, California (ARS)	NR			
Qwest Communications (ARS)	NR			
Arizona Public Service (ARS)	NR			
Time Warner Cable (ARS)	NR			
Southwest Gas (ARS)	NR			
Arizona Department of Transportation	Yes	7/7/14	X	
Arizona Fish & Game Dept.	NR			
Arizona Department of Commerce (ARS)	NR			
Arizona State Attorney General (ARS)	NR			
Arizona Dept. of Water Resources (ARS)	NR			

Arizona State Land Department <small>(ARS)</small>	NR			
MCAS / C P & L Office <small>(ARS)</small>	NR			
USDA – NRCS	NR			
Bureau of Land Management <small>(ARS)</small>	NR			
US Border Patrol	NR			
US Postal Service	NR			
Quechan Tribal Office	NR			
Cocopah Indian Tribe	NR			
Yuma County Water Users Association	NR			
Yuma Irrigation District	NR			
Yuma Mesa Irrigation Drainage District	NR			
Unit B Irrigation District	NR			
Yuma County Association of Realtor’s	NR			
Yuma County Contractor’s Association	NR			
AZ Society of Military Engineers (ASME)	NR			
AZ Society of Civil Engineers (ASCE)	NR			
AZ Society of Professional Engineers (ASPE)	NR			
El Paso Natural Gas Co.	NR			
Western Area Power Administration	NR			

<b>City of Yuma Internal List</b>	<b>Response Received</b>	<b>Date Received</b>	<b>“No Comment”</b>	<b>Written Comments</b>
Randall Chapman, Police	Yes	6/27/14	X	
Ron Ramirez, Parks	NR			
Damon Chango, Parks	NR			
Andrew McGarvie, Engineering	NR			
Kayla Holiman, Interim Fire Marshall	NR			
Kerry Beecher, Building Safety	NR			
Randall Crist, Chief Building Official	NR			
Josh Scott, Engineering	NR			
Josh Scott, Traffic Engineering	NR			
Jay Simonton, Utilities	NR			
NR=None Received				

<b>Neighborhood Meeting</b>	<b>Comments Available</b>
THURSDAY, JULY 24, 2014 – 5:30 PM	See Attachment D
<b>Prop. 207 Waiver Given to Applicant on:</b>	<b>Delivered by:</b>
6/19/14	Mail

**PUBLIC COMMENTS RECEIVED:**

Name:	Russell McCloud			Contact Information:	rmcloud@theriver.com				
Method of Contact:	Phone		FAX	Email	X	Letter		Other	
Comment: Good day to you Jennifer! Please forward any comments you receive on this plan amendment for the 4 <sup>th</sup> /5 <sup>th</sup> Avenue and 16 <sup>th</sup> Street area. I am interested in seeing it succeed, it is the right plan for that area. Thank you!									
Name:	Leanne Worthen			Contact Information:					
Method of Contact:	Phone	X	FAX	Email		Letter		Other	
Comment: Requested information on boundary of amendment. Has no issue with proximity to Commercial development.									

**ATTACHMENT C**  
**NEIGHBORHOOD MEETING COMMENTS**

**Date Held:** July 25, 2014

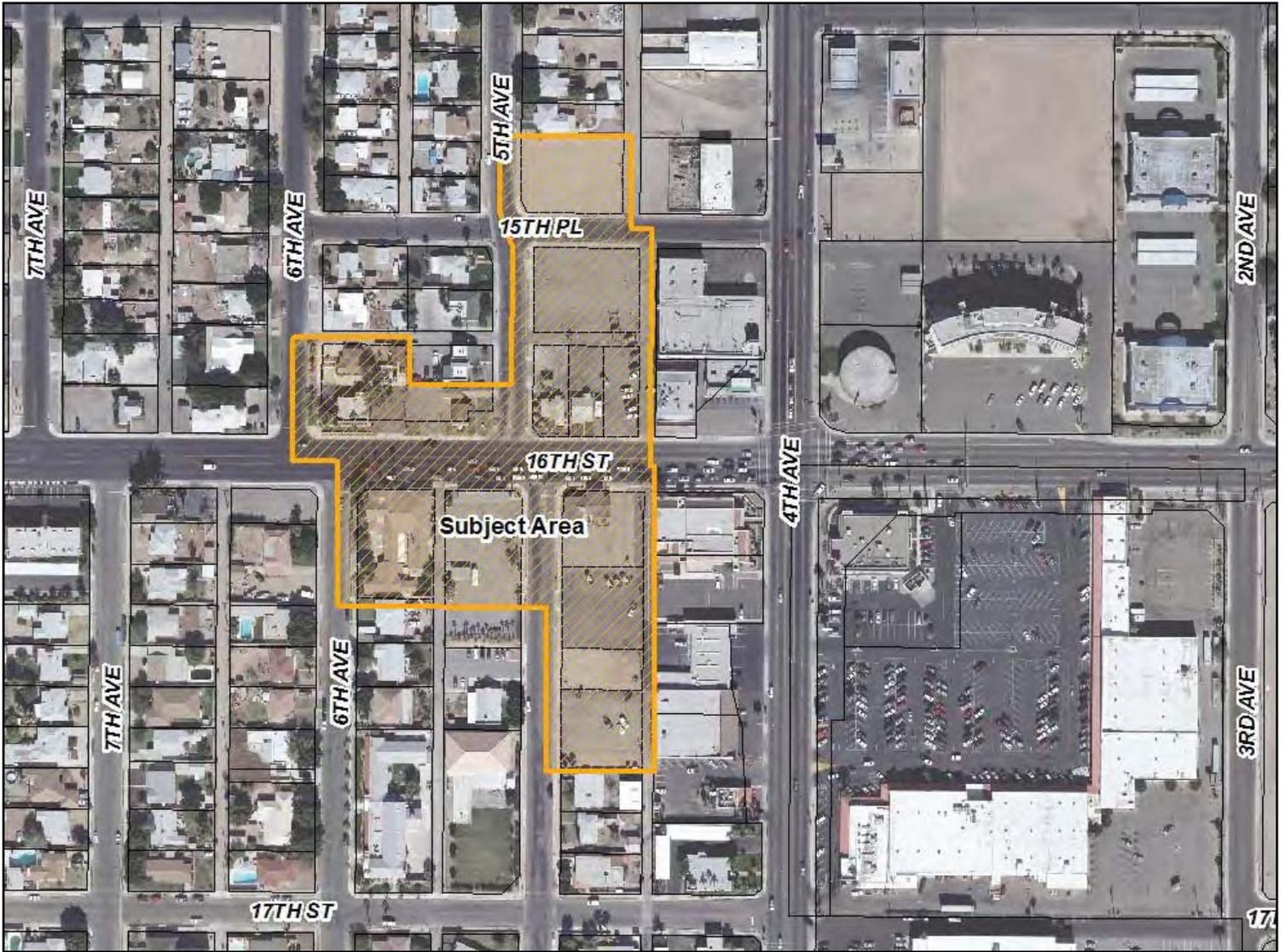
**Location:** 350 W. 16<sup>th</sup> Street, Suite 304

**Attendees:** Staff – Jennifer Albers and Noah Cullis, Agent for the Applicant – Robert Wyndetts and 13 neighboring property owners

Summary of Attendee’s Comments Related to the Project:

- Q - When the theater comes down, we will lose our noise buffer from the traffic at the intersection. What is the timing on demolition and new construction?  
A – The owner of the theater does not have a schedule for demolition and new development. Waiting on intersection work to be complete before moving forward.
- Q – What will be the impact on the neighbors during construction of the intersection?  
A – The City will maintain a minimum of one thru lane in each direction all through construction. The work will take over two years and is intended to primarily occur in the summer during the lowest traffic volumes. Potentially, neighbors may see bypass traffic. The City will work with neighbors to minimize impacts where possible.
- Q – What is the City doing with the balance of the properties after the roadwork is done?  
A – The City will dispose of those properties through public sale.
- Q – Will there be a wall around the Kenyon property?  
A – Yes, new development will need to have a wall to reduce impacts on the neighbors to the west.
- Q – Will there be an increase in crime as a result of the change in use?  
A – New development will bring more people and traffic to the underdeveloped properties. Potentially that could result in more crime but hopefully will also lead to more “eyes on the street”.
- Q – Will 15<sup>th</sup> Place be abandoned?  
A – It is possible that 15<sup>th</sup> Place will be abandoned but that will depend on the development layout that will come forward from Kenyon’s market.
- Q – Will property owners be assured of access during intersection construction?  
A – Yes, the City will work with property owners to maintain their access.

ATTACHMENT D  
AERIAL PHOTO



**RESOLUTION NO. R2014-42**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING RESOLUTION R2012-29, THE CITY OF YUMA 2012 GENERAL PLAN, TO CHANGE THE LAND USE DESIGNATION FROM MIXED USE AND LOW DENSITY RESIDENTIAL TO COMMERCIAL FOR APPROXIMATELY 5.6 ACRES LOCATED IN PROXIMITY TO THE INTERSECTION OF 5<sup>TH</sup> AVENUE AND 16<sup>TH</sup> STREET**

WHEREAS, the General Plan of the City of Yuma was adopted in 2012 by Resolution R2012-29 for the orderly and balanced development of lands through efficient and systematic land use planning; and,

WHEREAS, the General Plan provides a vision of development into the future based on the existing development, the needs of the community, and the desires of property owners; and,

WHEREAS, the City of Yuma Planning and Zoning Commission held public hearings on September 8, 2014 and October 13, 2014 for General Plan Amendment Case No. GP-6521-2014, regarding the request to amend the General Plan; and,

WHEREAS, due and proper notice of the public hearings were given in the time, form, substance and manner as provided by law, including publication of such notice in The Sun on August 14, 2014, September 22, 2014 and October 27, 2014 and,

WHEREAS, as the community grows and prospers, it may be necessary to amend the General Plan to reflect development trends and opportunities; and,

WHEREAS, the proposed General Plan Amendment meets the goals and objectives of the General Plan, and retains an adequate mixture and balances of land uses.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma, Arizona, as follows: that Resolution R2012-29, the City of Yuma 2012 General Plan, is amended to change the land use designation of the approximate 5.6 acres of real property depicted with crosshatching in Exhibit A, attached and by this reference made a part of this Resolution, from Mixed Use and Low Density Residential to Commercial.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

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

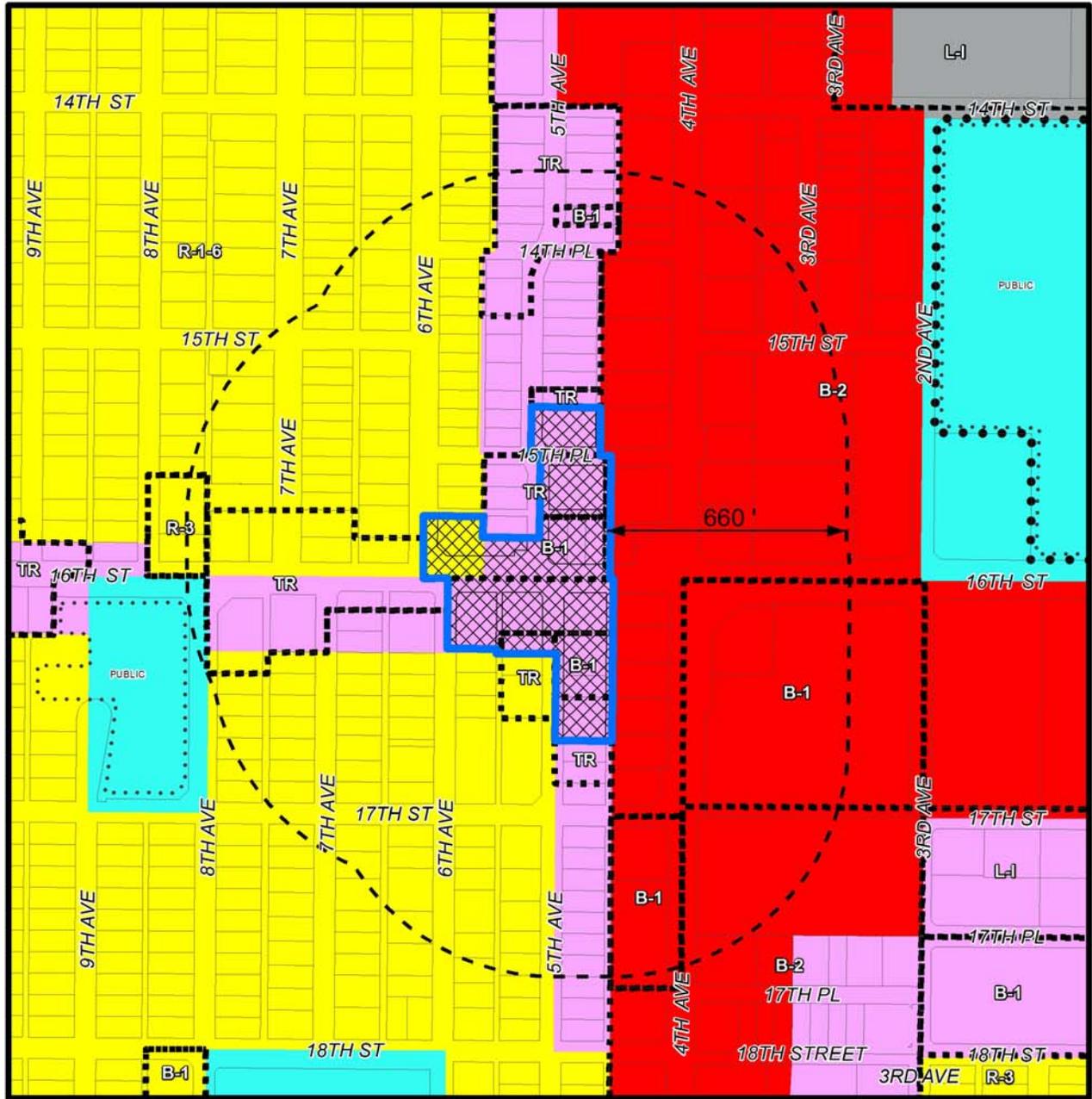
ATTESTED:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven W. Moore  
City Attorney

Exhibit A



**General Plan Land Use**

- Commercial
- Public/Quasi-Public
- Low Density Residential
- Industrial
- Mixed Use

**LOCATION MAP**

LOCATION OF SUBJECT PROPERTY

**Zoning Districts**

- B-1 Limited Commercial
- B-2 General Commercial
- R-1-6 Low Density Residential (6000 sq. ft. min.)
- R-3 High Density Residential
- L-1 Light Industrial
- TR Transitional



Prepared by: ITS-GIS

Checked by:



Date: 06-19-14

Revised:

Revised:

GP-6521-2014