



**CITY OF YUMA
REGULAR CITY COUNCIL MEETING AGENDA
COUNCIL CHAMBERS – YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
WEDNESDAY, DECEMBER 03, 2014
5:30 P.M.**

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

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

PRESENTATIONS

- Recognition of Paint-A-Thon Team Leaders

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. Special Worksession/Roundtable September 4, 2014
- 15. 2. Citizen’s Forum September 16, 2014
- 16. 3. Regular Worksession September 16, 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)

20. 2. Special Event Liquor License: Fort Yuma Rotary Club, Inc. - Traxx Christmas Party

Approve a Special Event Liquor License application submitted by Xanthi Panos, on behalf of the Fort Yuma Rotary Club, Inc., for the Traxx Christmas Party. The party will be held at the Quartermaster Depot, located at 201 N. 4th Avenue, on Friday, December 19, 2014 from 4:00 p.m. to 10:00 p.m. (SP14-29) (City Administration/ City Clerk) (Lynda L. Bushong)

22. 3. Special Event Liquor License: Yuma Rotary Club - German Fest on Madison

Approve a Special Event Liquor License application submitted by George Craig Davis, on behalf of Yuma Rotary Club, for the German Fest on Madison. The event will be held in the area of Madison Avenue between 1st Street and 2nd Street on Saturday, January 17, 2015 from 10:00 a.m. to 8:00 p.m. (SP15-01) (City Administration/City Clerk) (Lynda L. Bushong)

24. 4. Final Plat: Park West Unit #2 Subdivision

Approve the final plat for the Park West Unit #2 Subdivision. The property is located at the southwest corner of 42nd Drive and 24th Street. The applicant is Dahl, Robins and Associates, on behalf of Yuma Valley Land Company, LLC. (SUBD-7248-2014) (Community Development/Community Planning) (Laurie Lineberry)

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.

37. A. Resolution R2014-44 Amendment: Resolution No. R2013-38 Legal Description and Temporary Easement

Approve amending the legal description to the YRMC Ring Road Easement and the granting of a temporary construction easement from Hospital District No. 1 to the City of Yuma as part of a First Amendment to the Development Agreement previously approved by Resolution R2013-38. (City Administration/CIP Administration)

49. B. Resolution R2014-45 License Agreement: Joseph W. Fisher II & Barbara A. Fisher Trust

Authorize the City Administrator to execute a License Agreement (License) to permit the Fisher Trust to utilize City rights-of-way adjacent to their property for landscaping and automobile display pads. (Public Works/Engineering) (Joshua Scott)

59. C. Resolution R2014-46 License Agreement: Yuma County Water Users' Association

Approve and ratify the City Administrator's execution of Yuma County Water Users' Association Encroachment License No. 001-14-001, authorizing construction and maintenance of landscaping within a portion of the Patterson Lateral right-of-way. (Public Works/Engineering) (Joshua Scott)

70. D. Resolution R2014-47 Facilities Maintenance Agreement: Yuma SW Development Group LLC

Authorize the City Administrator to execute a Facilities Maintenance Agreement (sublicense) permitting Yuma SW Development Group, LLC, a North Carolina limited liability company, to use Yuma County Water Users' Association property under a license granted to the City of Yuma. (Public Works/Engineering) (Joshua Scott)

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.

84. 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)

88. 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)

92. 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)

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.

101. A. Ordinance O2014-35 Amendment: Ordinance No. O2013-52 Legal Description

Approve amending the legal description to the YRMC Ring Road Easement previously adopted as Ordinance No. O2013-52. (City Administration/Right-of-Way)

106. B. Ordinance O2014-36 Amend Yuma City Code: NFPA 1 Fire Code 2012 adoption with local amendments

Amend Yuma City Code Chapter 131, Sections 131-15 through 131-19 and adopt by reference NFPA 1 Fire Code 2012, commonly known as National Fire Protection Association 1 Fire Code 2012, including Annexes A, B, D, E and G, and local amendments. (Fire/Community Risk Reduction) (Steve Irr)

118. C. Ordinance O2014-38 Yuma City Code Amendment: Title 15, Chapter 157, Section of City Code 157-01 (Definitions)

Amend the Yuma City Code, Title 15, Chapter 15, Section 157-001 to add a definition of "biennial certified audit" and correct the title to Ordinance No. 2012-10 adopted May 2, 2012. (City Attorney)

V. PUBLIC HEARINGS & RELATED ACTIONS

There are no public hearings scheduled at this time.

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:
 - Industrial Development Authority – 3 term extensions

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 20, 2014 through December 3, 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 ARS § 9-463.05 (A.R.S. 38-431.03 A3 and A4):

2. Discussion, consultation with and/or instruction to legal counsel, regarding flooding related claims and lawsuit (Myers and other claims). (A.R.S. 38-431.03 A3 and A4)

ADJOURNMENT

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

MINUTES
SPECIAL WORKSESSION/ROUNDTABLE
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CONFERENCE ROOM 190, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
September 4, 2014
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the Special Worksession to order at 5:36 p.m.

Councilmembers Present: Wright, Knight, Craft and Mayor Nicholls
Councilmembers Absent: Beeson, McClendon and Thomas
Staffmembers Present: Acting City Administrator, Pat Wicks
Utilities Director, Jay Simonton
Various Department Heads or their representative
City Attorney, Steven W. Moore
City Clerk, Lynda L. Bushong

I. WATER AND SEWER RATE STUDY:

Simonton provided the following background to Council:

- The last rate study for the Utilities Department was in 2006.
- Economists.com is the firm that did the 2006 study and is the firm doing the current rate study.
- Water and Wastewater funds are kept in separate Enterprise Fund accounts.
 - Enterprise Funds are comprised of revenues generated through the rates and charges to customers for the services provided to them.
- This presentation has been heard by the Water and Sewer Commission twice.
- Tonight's presentation is based on comments received at both meetings.

Dan Jackson, Managing Director and Chief Executive of economists.com, presented the following:

Facts about water and wastewater rates in the 21st Century

- The average utility has been increasing rates by 5-6% per year and the trend is expected to continue into the future.
- The American Water Works Association (AWWA), the benchmark agency of the water industry, predicts that water and wastewater rates across the United States will triple in the next 15 years.
- 30-40% of utilities around the State of Arizona have rates in place that do not cover their costs; thereby making the decision to subsidize their water and wastewater rates from their general fund.
 - As a non-profit entity, the City of Yuma only asks customers to pay what it is costing to provide the service.
- Many reasons for rate increases are beyond a City's control and include:

- Inflation
- The repair and replacement of a system that is made up of hundreds of millions of dollars of assets.

Facts about City of Yuma’s Water and Wastewater Rates

- The City of Yuma has not increased water rates since 2008.
- The City of Yuma has not increased wastewater rates since 2011.
- The City of Yuma’s monthly residential charge is currently 22% below the average for the State of Arizona.
- As operating costs continue to increase, some form of monthly rate adjustments will be inevitable.

City of Yuma Current Water and WW Rate Structure

WATER RATES

Monthly Service Charge

5/8" Meter	\$ 15.68
3/4" Meter	15.68
1" Meter	18.97
1 1/2" Meter	24.56
2" Meter	30.14

Residential Volume Rate per Hundred Cubic Feet (HCF)

0-10	\$ 1.42
11-30	1.52
over 30 hcf	1.75

Commercial/Irrigation Volume Rate per HCF

Each unit	\$ 1.54
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WASTEWATER RATES

Residential Monthly Charge

All Meters	\$ 32.48
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Non-Residential Charge

Monthly Service Charge	\$ 4.17
Volume Rate per hcf	1.84

BOD - \$ per pound	\$ 0.26
TSS - \$ per pound	0.26

Residential Water/WW Rate Comparison

- The average customer in the State of Arizona uses about 10,000 gallons of water service and 5,000 gallons of wastewater service a month.
- The average customer in Yuma that uses this level will pay \$66.92 per month for this service not including taxes or garbage or other fees.
- The City of Yuma is almost \$20 below the State average of \$84.96.
- The City of Yuma is slightly higher than some neighboring border cities.
 - Note: Many border cities get grant funding to fund Capital Projects.

Current Water Accounts

- The City of Yuma has 28,349 water accounts.
 - 25,175 are inside and 3,174 are outside City limits.

- A majority of customers are residential.
 - 21,771 reside in; 2,718 reside out of City limits.

Forecasting Water Accounts

- A long-term rate plan should be conservative when forecasting future growth.
- Aggressive forecasting can result in revenue shortfalls.
- The general consensus from staff and the Water and Sewer Commission is to estimate 200 new water accounts per year.
- New customers will increase from 28,000 to over 30,000 by the year 2024 based on that estimate.

Historic and Forecast Water Consumption

- Usage has fallen in the past 10 years as residential customers have become more efficient.
 - In 2008 the average residential customer in the City of Yuma used about 14,213 gallons of water per month compared to 12,450 in 2015 which is a drop of 15% in the past 8 years.
- It is projected that water usage will continue to remain low due to conservation.

Operating Expense Forecast

- Projecting future expenses is based on a series of assumptions as follows:
 - Increases in personnel as the system expands.
 - O&M expenses increasing 2-3% per year due to inflation.
 - Increases in expenses including electricity, chemicals, insurance, worker's compensation and gasoline which are expected to increase at rates higher than inflation.

Capital Improvement Plan (CIP) Years 1-5

- City staff's assumption is over the next 5 years the City is going to require about \$24 million in capital improvement plan spending in the water and sewer system.
 - \$13.7 million in the water system and \$10.2 in the wastewater system.

CIP Funding Assumptions

- Existing funds
- Annual contribution from rates
- Capacity funds

Water and Wastewater Cost of Service

- The three components include:
 - Operating costs
 - Capital Improvement Plan (funded from rates)
 - Debt service
 - Dept service is expected at \$15 million a year
 - Cost of service is expected to trend upwards from \$42 million in 2015 to \$45 million in 2019

Water and Wastewater Cost of Service

- Is funded by a combination of three sources:
 - Capacity Fees—pays only for the growth-related portion of debt service.
 - Non-Rate Revenues—fees for late charges, inspections, etc.
 - Rates—Fund the remaining costs incurred by utilities.

Rate Plan Objectives

- Recover sufficient revenue to fund operations.
- Maintain required financial ratios.
- Fund Capital Improvements through the most effective combination of rates, long-term debt and capacity charges.
- To the best extent possible, minimize the impact of any rate adjustments on ratepayers.

Recommended Residential Water and Wastewater Rate Plan

- Water
 - Adjust water base rates effective each January over the next 5 years as follows:
 - January 2015—\$15.68 to \$16.31
 - January 2016—\$16.31 to \$16.96
 - January 2017—\$16.96 to \$17.30
 - January 2018—\$17.30 to \$17.64
 - January 2019—\$17.64 to \$18.00
 - Nominal increase in usage charges of about \$.6 cents per hundred cubic feet in 2015 and 2016 and then \$.3 cent increases in 2017-2019 in each rate tier.
- Wastewater
 - Adjust wastewater base rates effective each January over the next 5 years as follows:
 - January 2015—\$32.48 to \$33.78
 - January 2016—\$33.78 to \$35.13
 - January 2017—\$35.13 to \$35.83
 - January 2018—\$35.83 to \$36.55
 - January 2019—\$36.55 to \$37.28

Recommended Non-Residential Water and Wastewater Rate Plan

- Water
 - Adjust the non-residential water rate plan with a similar series of rate adjustments as the residential water rate plan including the usage charges.
- Wastewater
 - Adjust the non-residential wastewater base rate effective each January over the next 5 years as follows:
 - January 2015—\$4.17 to \$4.34
 - January 2016—\$4.34 to \$4.51
 - January 2017—\$4.51 to \$4.60
 - January 2018—\$4.60 to \$4.69
 - January 2019—\$4.69 to \$4.79

- Adjust The non-residential wastewater usage charge per hundred cubic feet as follows:
 - January 2015—\$1.84 to \$1.91
 - January 2016—\$1.91 to \$1.99
 - January 2017—\$1.99 to \$2.03
 - January 2018—\$2.03 to \$2.07
 - January 2019—\$2.07 to \$2.11

The same percentage increase would be recommended for all meter sizes.

Impact on Residential Ratepayers

- An average rate payer using 1600 cubic feet a month (about 12,000 gallons) would increase by \$2.86 a month to \$71.48.
 - The majority of monthly bills (about 70%) are billed at 1600 cubic feet or less and would increase by \$2-\$3 per month.
 - Over the course of 5 years, their bill would increase from \$71.48 to \$82.00 per month.
- Lesser users using 1000 cubic feet a month would go up by \$2.49 to \$64.85.
- Larger residential users using 3,000 cubic feet a month would go up by \$3.71 to \$96.47

Impact on Commercial Users

- An average rate payer using 5,000 cubic feet a month would increase by \$8.13 a month to \$211.44.
- Larger commercial users using 10,000 cubic feet a month would increase by \$14.89 a month to \$387.20.
 - Most commercial users can expect their bill to increase about \$8-\$15 per month.

Discussion:

- When doing a long-term rate plan, it is a good idea to review where you are after 3 years and adjust accordingly.
- The rates projected in the 2006 study are the rates that have been implemented for the past 8 years.
 - The City of Yuma scaled back some of its planned capital improvements which enabled the rate plan to stay in place during the recession.
- The primary thing driving up water consumption is new connections.
 - Water consumption has bottomed-out in the past two years and water consumption appears to be trending up.
- The non-rate revenues (fees for late charges, inspections, etc.) are a small portion of our revenues overall.
- Non-Rate Revenues including fees for late charges and inspections are currently not being utilized. The City of Yuma is not charging any penalty fees for non-payment or late payments.
- Part of the rate structure includes increased delinquency fees, increased connection/reconnection fees as well as a structured rate process with the intention of dropping such activity.

- When comparing water and sewer rates, keep in mind the following general principles:
 - The larger the city the lower the rate
 - Larger cities have more people located in more compact spaces which make it more efficient to provide service
 - Larger cities have larger commercial bases which are charged higher rates which in turn helps support the residential customers
- Many cities are currently implementing rate increases.
- Of those cities that were compared to the City of Yuma and the City of Yuma was higher, it was only \$3-\$5 higher for water and wastewater consumption.
- The City of Yuma is currently charging below their costs. If other cities are lower it might mean they have made the management decision to subsidize their water fund from their general fund.
- The State Average for Residential Water and Wastewater is \$84.96.
- Rates should be tiered to charge the higher volume users a higher charge to promote conservation.
- Conservation is good but too much conservation could result in a loss.
- The bond issued from 2007 is a 25-year bond.
- For a couple of years, in the water fund, we were surviving through paying debt almost entirely through rates because capacity fees dropped to almost nothing.
- We are trying to cure that by this rate plan – take it back to what we consider normal.
- This year we are paying around \$2.5 million out of the capacity fund for debt service related to both water and wastewater.
- The fluoride system is installed at both plants.
 - The costs to operate the fluoride system are low compared to the operation of the whole system.
 - The chemical cost on the fluoride system is approximately \$3,000 per year.
- The delinquency rate for customers who do not pay their bill when it is first due is 35%.
- Unpaid water accounts are generally limited to those who move out of town and are a low percentage.
- Cost savings methods being proposed include:
 - Moving the delinquent notice into the second month bill.
 - Including a delinquency fee on that bill.
 - Requiring two months payment, in order to be reconnected, if they don't pay their bill by the due date.
- Auto-pay will help remedy late or forgotten bills.
- The water plants are in really good condition.
- The CIP is budgeted to replace old water mains and other things in conjunction with street projects.
- There are no plant expansion projects in the CIP.
- Discharge to the Colorado River is unique to Yuma and extremely expensive
- Timetable:
 - A Notice of Intention will be coming before City Council on September 17th which begins the process and allows for the scheduling of public hearings.

- The State requires one public hearing. The City of Yuma will have two public hearings; one public hearing before the Water and Sewer Commission and one before City Council.
- Supplying City Council with rate alternatives would be beneficial.

There being no further business, **Mayor Nicholls** adjourned the meeting at 7:01 p.m.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

DRAFT

MINUTES
CITIZEN'S FORUM
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
September 16, 2014
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the Citizen's Forum to order at 5:31 p.m.

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

I. There were no speakers scheduled at this time.

II. EXECUTIVE SESSION

Mayor Nicholls adjourn the meeting at 5:31 p.m. No Executive Session was held.

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 16, 2014
6:00 p.m.

CALL TO ORDER

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

Councilmembers Present: Wright, Knight, Beeson, McClendon, Thomas, Craft and Mayor Nicholls
Councilmembers Absent: none
Staffmembers Present: City Administrator, Gregory K. Wilkinson
CIP Supervisor, Kevin Eatherly
City Engineer, Josh Scott
Various department heads or their representatives
City Attorney, Steven W. Moore
City Clerk, Lynda Bushong

I. REGULAR CITY COUNCIL MEETING AGENDA OF SEPTEMBER 17, 2014

Motion Consent Agenda Item B.4.: Off-Track Betting License: Turf Paradise at The Mine Shaft

- The application is requesting betting on horse racing be allowed.
- The process is similar to obtaining a liquor license where the City Council will make a recommendation for approval or denial, then that recommendation will be forwarded to the State, who ultimately has the final decision.
- Previous off track betting locations include:
 - Famous Sam's
 - The Landing Zone
 - Rumors Bar & Grill
- Off track betting falls under the state controlled racing and is closely monitored. Any establishment will need to meet all requirements set by state law.
- The state requires viewing a copy of the contract between the race venue and the local business.
 - An employee of the race venue is located within the local establishment and will be in charge of their operations.
 - Any items associated with the betting will be designated within the establishment.
 - Children would be allowed onsite if the establishment normally allows children during normal business.
- Historically there has not been a need for enhanced security at the previous locations.

Motion Consent Agenda Item 6: Request for Qualifications (RFQ): Geotechnical and Materials Testing and Other Related Consultant Services.

Eatherly explained to Council this item is requesting authorization to negotiate the rates for the consultant contracts. Since the statute requires candidates to be selected based on qualifications and not cost bids, local preference does not apply.

Motion Consent Agenda Item 5: Bid Rejection: Madison Avenue Improvements

Eatherly explained that it is very rare the staff recommends the rejection all bids. The reasoning behind it is because the lowest bid received was close to the budgeted amount allotted for project, thus not allowing for much flexibility. The second reason, there are a couple of similar projects that also need to be completed and it will cost the City more to do all three projects separately. By combining the three separate projects into one and spanning it over two fiscal years will result in a savings and allow the project to be built in its entirety.

Motion Consent Agenda Item 10: Notice of Intention to Adjust Water and Wastewater Utility Rates and Fees

Discussion:

- The notice of intention gives the public notice that the City is considering adjusting the Water and Wastewater rates, and starts the process.
- The process for adjusting rates does not have to be completed within a certain amount of time; however there are some requirements to the process that are set by statute.
 - Public notice of intention
 - Advertising in newspaper
 - Public hearings
- There will be plenty of opportunities for the Council to meet and discuss the different options available before adjusting the water and wastewater rates and fees.
- Public input is strongly encouraged.
- A roundtable with the consultant will be scheduled in the month of October.

Resolution Consent Agenda Item B: Resolution R2014-32 Development Fee Deferral: Basera Holdings, LLC

Scott stated the deferral agreement follows the suit of previous agreements over the past year. Also noted was the fact the subdivision in the agreement was formally known as Reflections.

Adoption of Ordinance Consent Agenda Item A: Ordinance O2014-27 Declaration of Surplus and Authorization of Transfer of Land: Arizona Department of Veteran's Services

Discussion:

- The surplus is approximately 17 acres of land that is located north of the canal.
- The staff of the Arizona Department of Veteran's Services toured a few locations within the City prior to deciding on the location to be transferred in Ordinance O2014-27.
- Decision of location was based on needs and requirements of the future VA Hospital.
 - Distance from town.

- Distance from ambulance services.
- Proximity to stores.
- The initial transfer is of 8 acres, with additional land set aside for future expansion.
- There are no known conflicts with the location being close to the sewer plant.

II. MARINE AVIATION WEAPONS AND TACTICS SQUADRON ONE (MAWTS-1)

Colonel Adams and **Major Denver**, from Marine Corps Air Station—Yuma, briefed City Council and staff on the upcoming Weapons and Tactics Instructor exercise, intended to give military students realistic training that is consistent with a mission that they may be called upon to execute.

AST (Assault Support Tactics) III Mission (Yuma)

- Foreign Humanitarian Assistance (FHA)

WTI Training Concept

- Friday: October 10, 2014
- Air
 - Over 30 aircraft involved (6 in Yuma)
 - Operate in flights of 2-4 aircraft
 - 6.5 hour flight window (4:00 p.m. – 10:30 p.m.)
 - Yuma landing sites:
 - Kiwanis Park
 - Trinity Christian Center
 - Crane Middle School
 - Yuma Regional Medical Center
- Ground
 - Airborne Security Force insert
 - MEDCAP personnel

Coordination

- Safety
 - Strict adherence to all FAA regulations
 - Altitudes
 - Minimum of 500' Above Ground Level (AGL) over the city except during takeoff and landing
 - De-confliction within air traffic control airspace
 - Environmental
 - Drip pans placed beneath extended boom forklifts (EBFLs) at Kiwanis
 - Limited movement for turf preservation
 - Security/Fire Fighting
 - Military Aircraft Rescue and Fire Fighting (ARFF) on site
 - Yuma Police and Military Police (MP) on site
 - Site Commander will ensure the site is clean prior to departure
 - No ordnance will be carried on any aircraft/personnel
 - Role players will be in civilian clothes and wearing reflective belts
 - Kiwanis Park, Trinity Christian Center, Crane Middle School
 - No public or recreational events scheduled

- YRMC
 - Coordination 2 weeks prior
- All locations: Spectators are encouraged and are asked to follow instructions and/or directions of local authorities and exercise personnel for own safety.

III. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION - NONE

IV. ADJOURNMENT/EXECUTIVE SESSION

Mayor Nicholls adjourned the meeting at 6:41 p.m. No Executive Session was held.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

DRAFT



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 2014

DEPARTMENT: City Administration

DIVISION: City Clerk

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

TITLE:
Special Event Liquor License: Fort Yuma Rotary Club, Inc. - Traxx Christmas Party

SUMMARY RECOMMENDATION:

Approve a Special Event Liquor License application submitted by Xanthi Panos, on behalf of the Fort Yuma Rotary Club, Inc., for the Traxx Christmas Party. The party will be held at the Quartermaster Depot, located at 201 N. 4th Avenue, on Friday, December 19, 2014 from 4:00 p.m. to 10:00 p.m. (SP14-29)

REPORT:

Xanthi Panos, on behalf of the Fort Yuma Rotary Club, Inc., has applied for a Special Event Liquor License for the Traxx Christmas Party. The party will be held at the Quartermaster Depot, located at 201 N. 4th Avenue, on Friday, December 19, 2014 from 4:00 p.m. to 10:00 p.m.

The application has been sent to Community Development, the Police Department, the Fire Department, Risk Management, City Engineering (Traffic), and Heritage Area 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		11/25/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		11/25/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Lynda L. Bushong		11/17/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Jasmin Rodriguez		11/17/2014		



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 2014

DEPARTMENT: City Administration

DIVISION: City Clerk

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

TITLE:
Special Event Liquor License: Yuma Rotary Club - German Fest on Madison

SUMMARY RECOMMENDATION:

Approve a Special Event Liquor License application submitted by George Craig Davis, on behalf of Yuma Rotary Club, for the German Fest on Madison. The event will be held in the area of Madison Avenue between 1st Street and 2nd Street on Saturday, January 17, 2015 from 10:00 a.m. to 8:00 p.m. (SP15-01)

REPORT:

George Craig Davis, on behalf of Yuma Rotary Club, has applied for a Special Event Liquor License for the German Fest on Madison. The event will be held in the area of Madison Avenue between 1st Street and 2nd Street on Saturday, January 17, 2015 from 10:00 a.m. to 8:00 p.m.

The application has been sent to Community Development, the Police Department, the Fire Department, Risk Management, Engineering (Traffic), and Parks & 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. Application for Special Event Liquor License 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			11/25/2014
	REVIEWED BY CITY ATTORNEY:			DATE:
	Steven W. Moore			11/25/2014
	RECOMMENDED BY (DEPT/DIV HEAD):			DATE:
Lynda L. Bushong			11/17/2014	
WRITTEN/SUBMITTED BY:			DATE:	
Jasmin Rodriguez			11/17/2014	



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 2014
DEPARTMENT: Community Development
DIVISION: Community Planning

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

TITLE:
 Final Plat: Park West Unit #2 Subdivision

SUMMARY RECOMMENDATION:

Approve the final plat for the Park West Unit #2 Subdivision. The property is located at the southwest corner of 42nd Drive and 24th Street. The applicant is Dahl, Robins and Associates, on behalf of Yuma Valley Land Company, LLC. (SUBD-7248-2014)

REPORT:

Planning and Zoning Commission Recommendation:

On November 11, 2014 the Planning and Zoning Commission voted to recommend APPROVAL (5-0) with Cave and Miller absent, of the request to approve the final plat for the Park West Unit #2 Subdivision, 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 the subdivision final plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.
3. The rights-of-way must be dedicated free and clear to the City, and all easements in the right-of-way must be vacated unless the easement is specifically presented to the City, and the City specifically approves its acceptance. Approval of the plat is not approval of an easement in the right-of-way.
4. Any easements on other property in the subdivision must be vacated to the extent that they would require a utility, licensed cable operator, or other licensed or franchised communications system (collectively, the "utilities") to:
 - a. pay to cross the easement to reach any structure on the lot;
 - b. prevent the utilities from providing service to any structure on a lot; or
 - c. effectively prevent any entity authorized to place facilities in a utility easement from using the easements or accessing potential customers passed by the easement.

5. Approval of the plat does not authorize the maintenance or installation of any facility in the rights of way, whether or not contemplated by the plat, without a license, franchise, or similar authorization issued by the City.
6. A time frame of build-out for the subdivision shall be submitted to the Crane School District to enable the district to adequately plan for future school facilities.
7. An 8 ½" X 11" paper copy of this phase of the subdivision plat, showing the location of the group mailboxes and signed as APPROVED by the local Yuma Postmaster, shall be submitted to the City within sixty (60) calendar days of the effective date of approval of the subdivision final plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.
8. The Owner/Developer shall meet all conditions of approval for the preliminary plat of this subdivision.
9. After the final plat has been approved by City Council, the applicant/developer shall have two years to record the approved plat, or the final plat approval shall be null and void.

Public Comments – Excerpt from Planning and Zoning Commission Minutes:

Robert Blevins – Principal Planner, summarized the staff report, recommending **APPROVAL**.

QUESTIONS FOR STAFF

“**David Koopmann – Planning and Zoning Commissioner** said he was concerned that the only open space was on the school site to the south. He wondered if the school would fence in the open space and access would be limited. He asked if the open space was already deeded or dedicated to the school district. **Andrew McGarvie – Assistant City Engineer**, stated that the school property was owned by the school district and the applicant had nothing to do with that property; it was purchased from a different owner. **Koopmann** said that answered his questions because he knew that if a school site was dedicated, the school had to be built within 10 years otherwise the property reverted to the developer. He asked if there was a site plan for the school. **McGarvie** said no.

APPLICANT / APPLICANT’S REPRESENTATIVE

“**Kevin Dahl, 1560 S. 5th Avenue, Yuma, Arizona**, said the applicant agreed with the Conditions of Approval, but requested Condition 9 to be modified from one year to two years to allow more time for building the subdivision. He stated that the Crane School District planned to have two schools built on both ends of the 30 acres with the open space being a combination of retention basin and play area.

“**Chris Hamel – Planning and Zoning Commissioner** asked if there would be any additional access points. **Dahl** said the access points would be off of 24th Street and off of Avenue C, with a future access point off of 28th Street, as unit 3 is developed.

“**Clinton Underhill – Planning and Zoning Commissioner** asked the long-term plans of 45th Avenue along the west side of the subject property. **McGarvie** said there nothing in the current 5-year CIP for that roadway.

PUBLIC COMMENT

“**Claudia Baker, 1307 E. 24th Place, Yuma, Arizona**, said she was speaking on behalf of her mother, Johnnie Warnick, who owned property west of this development. She asked why Brian Hall kept harassing her mother stating that his most recent request was to have her mother’s property

connected to the city sewer. Baker stated that Mr. Hall wanted to obtain her mother's property and would do anything to get it. Her mother refuses to cooperate with him, yet Mr. Hall keeps bothering her. She stated that there would be traffic congestion with two schools, including after-school activities such as sports. Additionally, 6 acres was too small of an open space for the amount of homes being built for the area.

“**Koopmann** stated that there had been traffic problems in that area, and would probably have more traffic issues in the future. It would be a problem, and would get worse with the addition of new subdivision phases.”

MOTION

“**Motion by Underhill, second by Hamel, to APPROVE Case Number SUBD-7248-2014, subject to the Conditions of Approval in Attachment A, modifying Condition 9 to read ‘After the final plat has been approved by City Council the applicant/developer shall have two years to record the approved plat or the final plat shall be null and void.’ Motion carried unanimously (5-0).”**

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	11/25/2014
	REVIEWED BY CITY ATTORNEY:	DATE:
	Steven W. Moore	11/25/2014
	RECOMMENDED BY (DEPT/DIV HEAD):	DATE:
Laurie Lineberry	11/14/2014	
WRITTEN/SUBMITTED BY:	DATE:	
Robert Blevins	11/14/2014	



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

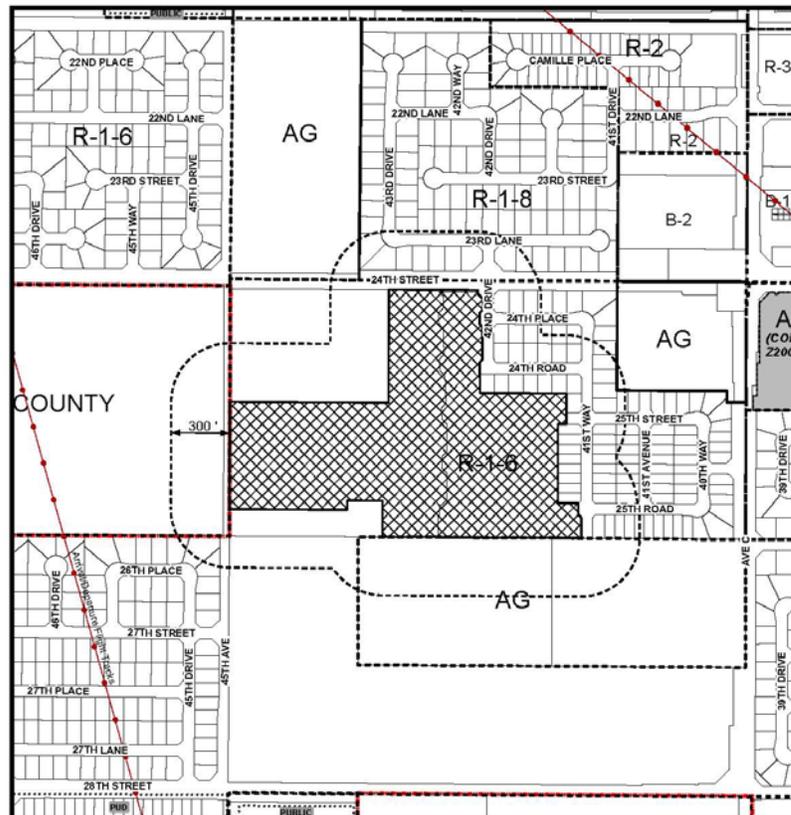
Hearing Date: November 10, 2014

Case Number: SUBD-7248-2014

Project Description/Location: Final plat for Park West Unit #2 Subdivision. This subdivision will contain approximately 31.39 acres and is proposed to be divided into 133 residential lots, ranging in size from approximately 6,000 square feet to 13,996 square feet. The property is located at the southwest corner of 42nd Drive and 24th Street, Yuma, AZ.

	Existing Zoning	Existing Land Use	Land Use Designation
Site	Low Density Residential (R-1-6)	Vacant	Low Density Residential
North	Low Density Residential (R-1-8)	Falls Ranch #6	Low Density Residential
South	Low Density Residential (R-1-6); Agriculture (AG)	Vacant	Low Density Residential
East	Low Density Residential (R-1-6); Agriculture (AG)	Park West #1	Low Density Residential
West	Low Density Residential (R-1-6) / County Zoning: Rural Area (RA-40)	Barkley Ranch / Vacant	Low Density Residential

Location Map



Prior site actions: Pre-annexation development agreement: R2012-30; Annexation: O2013-30; General Plan Amendment: GP-1255-2012; Subdivision: SUBD-5709-2014.

Staff recommendation: Staff recommends **APPROVAL** of the final plat for Park West Unit #2 Subdivision, subject to the conditions shown in Attachment A.

Suggested Motion: Motion to **APPROVE** the final plat for Park West Unit #2 Subdivision, subject to the conditions shown in Attachment A, because the request is in conformance with the City of Yuma General Plan and is compatible with surrounding land uses.

Staff Analysis: The proposed 31.39 acre subdivision will consist of 133 single-family residential lots of 6,000 square feet or more. Access will be off of both 24th Street and Avenue C (through Park West Unit #1). This new residential subdivision is in proximity to the existing Falls Ranch, Barkley Ranch, and Parkway Place subdivisions. The first phase of this subdivision, Park West Unit #1, has a number of homes under construction.

The final plat has had some adjustments since the preliminary plat approval. Two street stubs were added for access into the proposed Park West Unit #5. Also a number of lots were increased in square footage, causing a reduction of 13 lots (from 146 lots to 133 lots).

The applicant states:

“The developer’s goal is to provide the housing product desired by its customers. This is difficult to predict with 100% accuracy. At Park West Unit No. 1, the largest consumer demand was for the Model 2024 which requires the 74’ X 100’ lot.

“As originally submitted in the Preliminary Plat, Park West No. 2 was comprised of primarily 50’ x 120’ lots. The developer expects that the demand for the Model 2024 will continue at Unit No. 2, and has therefore increased the number of 74’ X 100’ lots.”

1. Does the subdivision comply with the conditions of the rezoning?

Yes.

2. Does the subdivision comply with the conditions of the preliminary plat approval?

Yes.

3. Is the final plat consistent with the preliminary plat that was approved?

Yes.

Public Comments Received: None Received.

External Agency Comments: None Received.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: October 8, 2014

Final staff report delivered to applicant on: October 20, 2014

- Applicant agreed with all of the conditions of approval on: October 8, 2014
- Applicant did not agree with the following conditions of approval: (list #'s)
- If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

Attachments

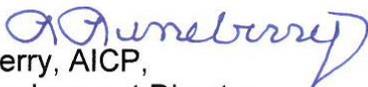
A	B	C	D	E
Final Plat Conditions of Approval	Final Plat Map	Preliminary Plat Map	Preliminary Plat Conditions	Aerial Photo

Prepared By: 
 Bob Blevins, Principal Planner

Date: 10/9/14

Reviewed By: 
 Bobette Bauermann, Principal Planner

Date: 10/9/14

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

Date: 10.13.14

**ATTACHMENT A
FINAL PLAT
CONDITIONS OF APPROVAL**

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

**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 the subdivision final plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.

City Attorney Comments: (928) 373-5058:

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

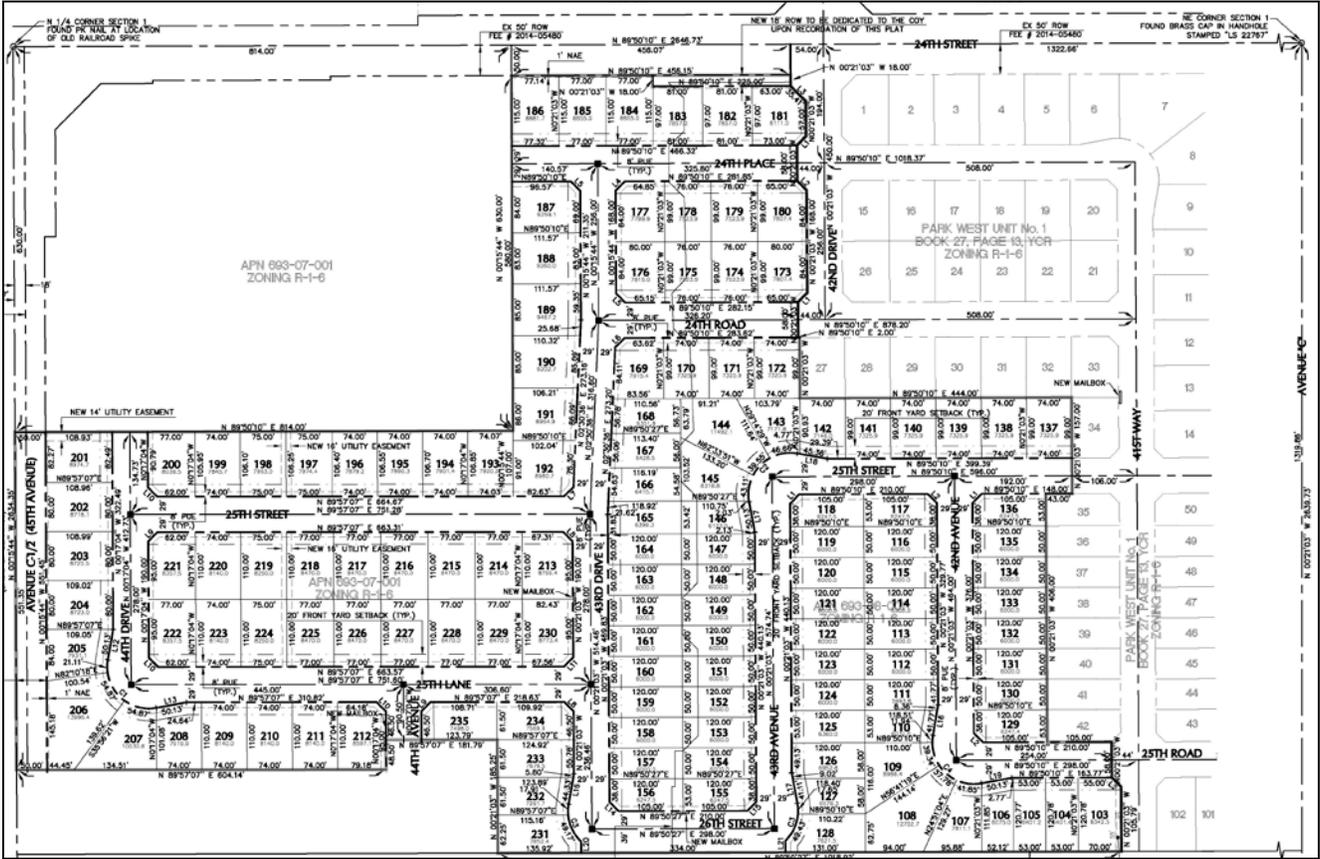
Community Planning Conditions: Bob Blevins, Principal Planner, (928) 373-5189:

6. A time frame of build-out for the subdivision shall be submitted to the Crane School District to enable the district to adequately plan for future school facilities.
7. An 8 ½" X 11" paper copy of this phase of the subdivision plat, showing the location of the group mailboxes and signed as APPROVED by the local Yuma Postmaster, shall be submitted to the City within sixty (60) calendar days of the effective date of approval of the subdivision final plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.

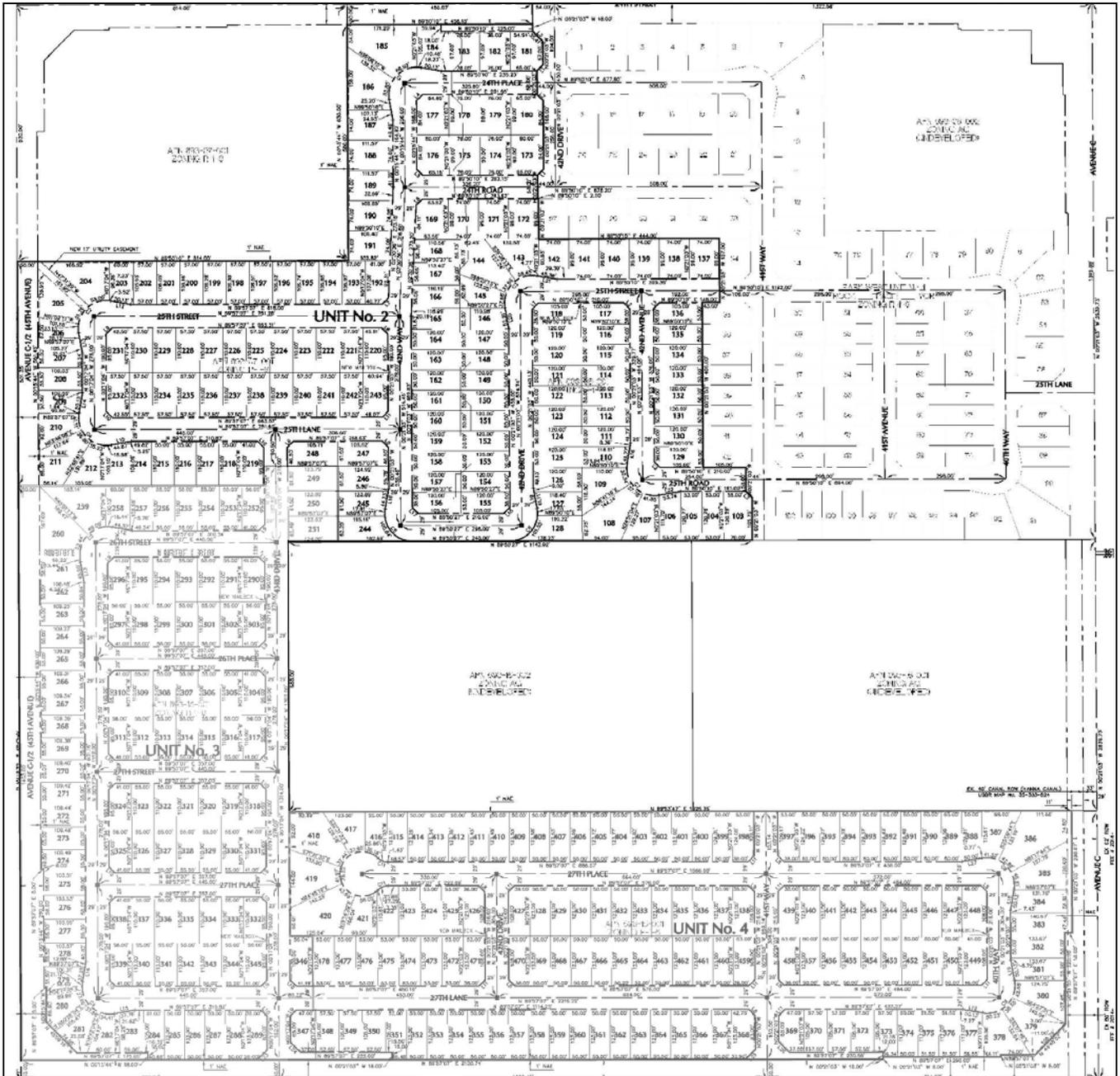
8. The Owner/Developer shall meet all conditions of approval for the preliminary plat of this subdivision.
9. After the final plat has been approved by City Council, the applicant/developer shall have one year to record the approved plat, or the final plat approval shall be null and void.

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 FINAL PLAT MAP



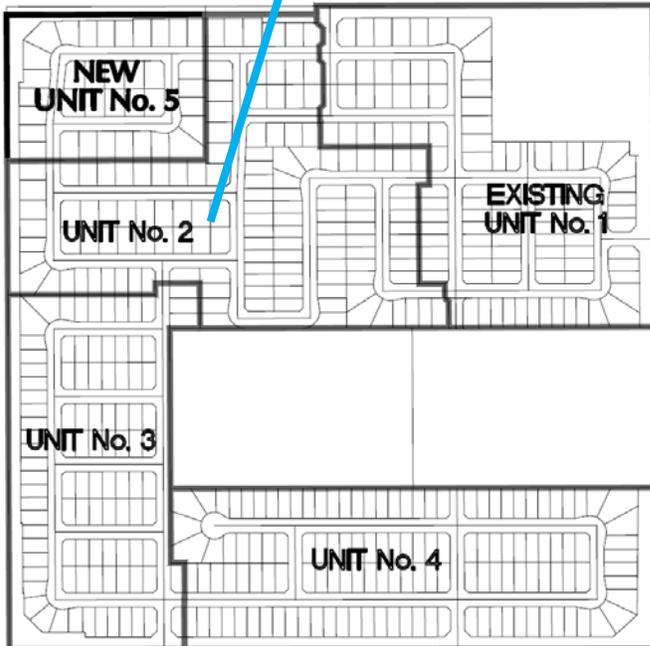
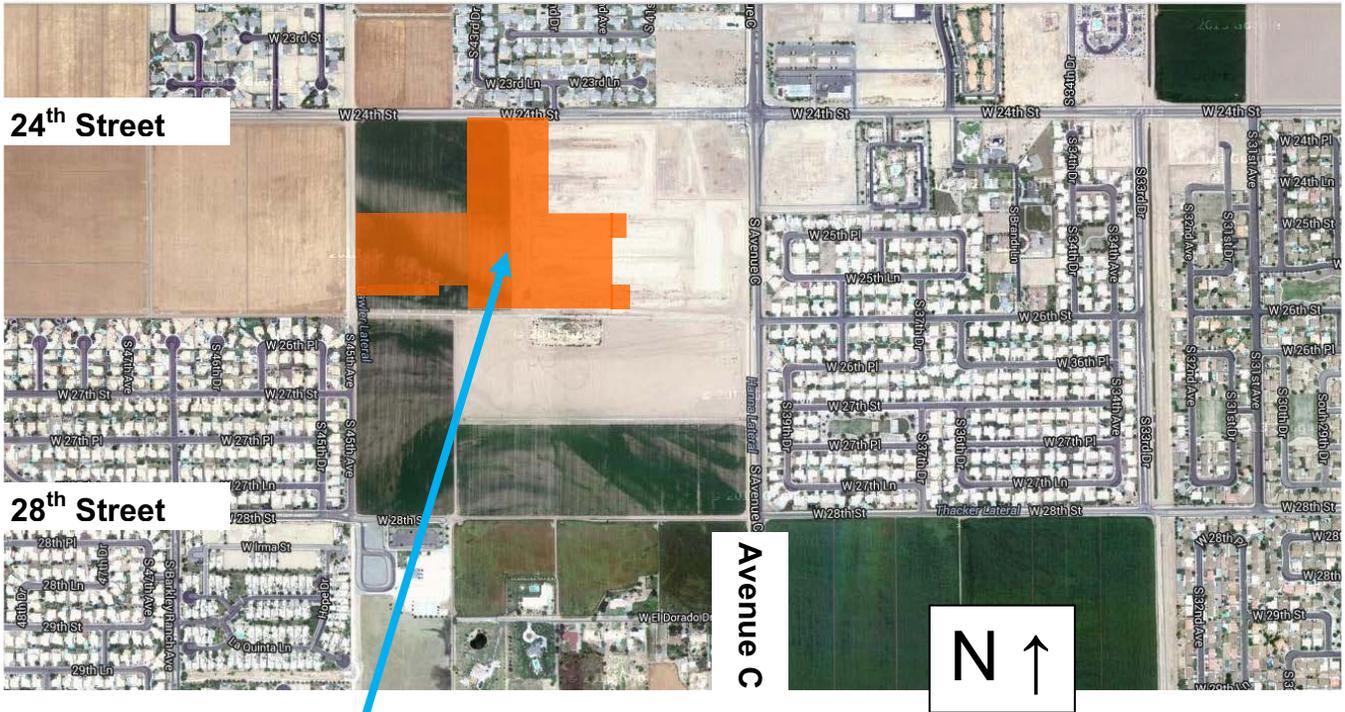
ATTACHMENT C PRELIMINARY PLAT MAP



ATTACHMENT D
PRELIMINARY PLAT CONDITIONS

1. The conditions 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 the subdivision preliminary plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.
3. The rights-of-way must be dedicated free and clear to the City, and all easements in the right-of-way must be vacated unless the easement is specifically presented to the City, and the City specifically approves its acceptance. Approval of the plat is not approval of an easement in the right-of-way.
4. Any easements on other property in the subdivision must be vacated to the extent that they would require a utility, licensed cable operator, or other licensed or franchised communications system (collectively, the "utilities") to:
 - a. pay to cross the easement to reach any structure on the lot;
 - b. prevent the utilities from providing service to any structure on a lot; or
 - c. effectively prevent any entity authorized to place facilities in a utility easement from using the easements or accessing potential customers passed by the easement.
5. Approval of the plat does not authorize the maintenance or installation of any facility in the rights of way, whether or not contemplated by the plat, without a license, franchise, or similar authorization issued by the City.
6. The Owner/Developer shall provide a Title Report and supporting documentation for the property contained within the proposed preliminary subdivision, at the time that full design plans are submitted for the first phase of this preliminary plat to the City of Yuma for review.
7. The Owner/Developer shall meet the obligations of the pre-annexation development agreement for this property per resolution R2012-30, recorded at fee # 2013-08606, Yuma County Records.
8. The Owner/Developer shall provide one street stub out (minimum) from the subdivision to the future 45th Avenue, preferably one located near the subdivision north-south mid-point.
9. A time frame for the build out of the subdivision shall be submitted to the Crane School District to enable the district to adequately plan for future school facilities.
10. Show group mailbox location(s) on the plat at the actual locations they will be constructed. The Developer shall coordinate mail delivery receptacles with the United States Postal Service.
11. The Applicant shall submit a landscaping and irrigation plan that meets City landscaping code requirements for the street parkways, raised medians and areas adjacent to the subdivision walls.
12. With the exception of Condition 2, the Owner shall submit a final plat within two (2) years of Preliminary Plat approval. Should a Final Plat not be submitted within two (2) years of the effective date of approval of the Preliminary Plat, the approval of this Preliminary Plat shall be null and void, unless the conditions are contained in an executed Pre-development Agreement.

**ATTACHMENT E
AERIAL PHOTO**



OVERALL MAP OF PARK WEST UNITS



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 2014

DEPARTMENT: City Administration

DIVISION: CIP Administration

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

TITLE:
Amendment: Resolution No. R2013-38 Legal Description and Temporary Easement

SUMMARY RECOMMENDATION:
Approve amending the legal description to the YRMC Ring Road Easement and the granting of a temporary construction easement from Hospital District No. 1 to the City of Yuma as part of a First Amendment to the Development Agreement previously approved by Resolution R2013-38.

REPORT:
The City Council approved Ordinance No. O2013-52 authorizing, among other items, the granting of an easement for the ring road on City-owned real property (the Ring Road Easement). The terms of the Ring Road Easement were incorporated in a Development Agreement approved by the City Council as Resolution R2013-38. Construction of the ring road now requires amendment of the Ordinance and Development Agreement to accommodate the ring road as constructed.

The attached Resolution approves a First Amendment to the YRMC Development Agreement between the City of Yuma, Hospital District No. 1, Yuma County, Arizona, and the Yuma Regional Medical Center (First Amendment). This First Amendment also includes a grant of a temporary construction easement from Hospital District No. 1 to the City of Yuma for use during the construction of the Smucker Basin Project, a stormwater basin project between the City of Yuma and the Yuma County Flood Control District to be located in the adjacent Smucker Park.

A companion ordinance amends Ordinance No. O2013-52 and authorizes the grant of easement on the "as constructed" property as part of the Yuma Regional Medical Center's expansion and improvements on property leased from Hospital District No. 1. The change reduces the grant of easement to accurately match the encroachment of the ring road and the retaining wall on City property.

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			11/25/2014
	REVIEWED BY CITY ATTORNEY:			DATE:
	Steven W. Moore			11/25/2014
	RECOMMENDED BY (DEPT/DIV HEAD):			DATE:
WRITTEN/SUBMITTED BY:			DATE:	

RESOLUTION NO. R2014-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, APPROVING AND AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH THE YUMA REGIONAL MEDICAL CENTER AND HOSPITAL DISTRICT NO. 1, YUMA COUNTY, ARIZONA

WHEREAS, the City of Yuma (City) is authorized pursuant to Arizona Revised Statutes § 9-500.05 to enter into development agreements with owners of real property; and,

WHEREAS, in order for the Yuma Regional Medical Center (YRMC) to make certain medical campus building, roadway and utility expansions and improvements on property owned by Hospital District No. 1, Yuma County, Arizona (the District), the parties previously entered into a Development Agreement recorded as Yuma County Recorder's Fee #2013-28074 (Development Agreement); and,

WHEREAS, the Development Agreement includes a Ring Road Easement attached to the Development Agreement as Exhibit D-1; and,

WHEREAS, upon construction of the ring road and the ring road retaining wall, the legal description of the Ring Road Easement has changed which requires amending the legal description of Exhibit D-1 through an amendment (First Amendment) to the Development Agreement in order to accurately describe the ring road as constructed; and,

WHEREAS, the City and the Yuma County Flood Control District intend to construct a stormwater basin in Smucker Park (the Smucker Basin Project) and needs a temporary construction easement from Hospital District No. 1 in order to construct the Smucker Basin Project; and,

WHEREAS, the First Amendment includes a grant of temporary construction easement from Hospital District No. 1, Yuma County, Arizona to the City.

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

SECTION 1: The First Amendment to the Development Agreement with Yuma Regional Medical Center and Hospital District No. 1, Yuma County, Arizona, is approved in accordance with the terms of the First Amendment.

SECTION 2: The City Administrator is authorized and directed to execute the First Amendment, attached as Exhibit A and by this reference incorporated into this Resolution, on behalf of the City of Yuma.

SECTION 3: To the extent required by law to amend the Development Agreement under the terms of the First Amendment, this Resolution amends Resolution R2013-38.

Adopted this _____ day of _____ 2014.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

APPROVED AS TO FORM:

Lynda L. Bushong
City Clerk

Steven W. Moore
City Attorney

**First Amendment To YRMC Development Agreement
City of Yuma, Hospital District No. 1, and Yuma Regional Medical Center**

This First Amendment (“**First Amendment**”) to the YRMC Development Agreement recorded as Yuma County Recorder’s Fee #2013-28074 (“**Development Agreement**”), is made as of the _____ day of _____, 201____ by and among the City of Yuma, an Arizona municipal corporation (“**City**”), Hospital District No. 1, Yuma County, Arizona, a political subdivision of the State of Arizona (“**Hospital District**”); and Yuma Regional Medical Center, an Arizona non-profit corporation (“**YRMC**”). The City, Hospital District and YRMC are collectively referred to as the “**Parties**” or individually as a “**Party.**”

WHEREAS, the Parties previously entered into the Development Agreement to provide for, among other benefits, the design, construction and maintenance of Ring Road; and,

WHEREAS, the City has granted to Hospital District a YRMC Ring Road Easement as described in the Development Agreement; and,

WHEREAS, after construction, the legal description to the YRMC Ring Road Easement requires an amendment in order to accommodate Ring Road as built; and,

WHEREAS, amendment of the YRMC Ring Road Easement shall be accomplished by recording an Ring Road Easement with the legal description attached as Exhibit 1 to this First Amendment or re-recording the Ring Road Easement as an Amended Ring Road Easement; and,

WHEREAS, in addition to the amended legal description for the YRMC Ring Road Easement, the City, together with the Yuma County Flood Control District is undertaking construction of a retention basin in Smucker Park (the “**Smucker Basin Project**”) adjacent to the Hospital District’s property; and,

WHEREAS, construction of the Smucker Basin Project is scheduled to commence in the near future; and,

WHEREAS, the City and the Yuma County Flood Control District need a Temporary Construction Easement (“**TCE**”) over a portion of the real property owned by the Hospital District in order to accomplish the Smucker Basin Project; and,

WHEREAS, the Hospital District has agreed to grant the City a TCE in accordance with the terms of this First Amendment,

NOW THEREFORE in consideration of the terms and conditions of this First Amendment, the Parties agree to Amend the Development Agreement as follows:

1. Amended Ring Road Easement. The legal description attached to the Ring Road Easement (Exhibit D-1 of the Development Agreement) shall be recorded (or re-recorded as an “**Amended Grant of Easement**” if already recorded) and shall include the legal description attached to this First Amendment as Exhibit 1. All other terms of the Ring Road Easement shall remain the same.

2. Grant of Temporary Construction Easement. The Hospital District shall grant the City a **TCE** for construction of the Smucker Basin Project effective November 12, 2014 through November 12, 2017. The TCE shall be in the form attached as Exhibit 2.

3. Meaning of Terms. Unless specifically defined in this First Amendment, all terms shall have the meanings used in the Development Agreement which shall remain in full force and effect except as amended herein.

4. Authorization. By their signatures below, each of the Parties represents that all actions necessary to authorize this First Amendment have been taken by the respective entity.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the YRMC Development Agreement as of the date first set forth above.

City of Yuma

Gregory K. Wilkinson
City Administrator

Attest:

Lynda L. Bushong
City Clerk

Approved as to form:

Steven W. Moore
City Attorney

**Yuma Regional Medical Center,
An Arizona non-profit corporation**

Camie Overton
Chief Executive Officer

State of Arizona)
) ss
County of Yuma)

The foregoing First Amendment to Development Agreement was acknowledged before me this ____ day of _____, 201____ by Patricia Ware, Chief Executive Officer of Yuma Regional Medical Center, an Arizona non-profit corporation, on behalf of the corporation, being duly authorized to do so.

My Commission Expires: _____
Notary Public

Hospital District No. 1, Yuma County, Arizona
A political subdivision of the State of Arizona

Patricia Ware
Chairman

Approved:

Pamela Walsma
Attorney for Hospital District No. 1
Yuma County, Arizona

State of Arizona)
) ss
County of Yuma)

The foregoing First Amendment to YRMC Development Agreement was acknowledged before me this ____ day of _____, 201____ by Patricia Ware, the Chairman of the Hospital District No. 1, Yuma County, Arizona, a political subdivision of the State of Arizona, on behalf of the Hospital District.

My Commission Expires:

Notary Public

State of Arizona)
) ss
County of Yuma)

On this ____ day of _____ 201____, before me, the undersigned Notary Public, personally appeared Pamela Walsma, as attorney for Hospital District No. 1, Yuma County, Arizona, who acknowledged she executed the foregoing instrument as such attorney.

My Commission Expires:

Notary Public

EXHIBIT 1

EXHIBIT D-1

Ring Road Legal Description 6/17/14

That portion of the Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona, also described in DEDICATION OF PARK, PLAYGROUND AND FAIRGROUND IN YUMA COUNTY, ARIZONA, recorded in Docket 104, Pages 355 to 357, Yuma County Records (YCR) and more particularly described as follows:

Beginning at the Northeast corner of the Northeast quarter (NE¼) of said Section 5, also described in RECORD OF SURVEY, dated 2/16/2010, FEE # 2010-03750, recorded in Book 9 of Surveys, Pages 21 & 22, YCR;

Thence South 00°23'10" East (Measured (M)), South 00°23'01" East (Record (R) said Record of Survey), South 00°22'23" East (Record (R1) United States Bureau of Reclamation Balanced Section Map) along the East line of said Section 5 a distance of 1,325.28 feet (M), 1324.97 feet (R), 1324.92 feet (R1) to the Northeast corner of the Southeast quarter of the Northeast quarter (SE¼NE¼) of said Section 5;

Thence North 89°16'56" West (M), North 89°17'27" West (R1) along the North line of said Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5 a distance of 85.01 feet (M) to the **TRUE POINT OF BEGINNING**;

Thence continuing North 89°16'56" West (M), North 89°17'27" West (R1) along the North line of said Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5 a distance of 479.69 feet (M) to a point;

Thence South 72°22'44" East (M) a distance of 14.82 feet (M) to a point;

Thence South 69°33'02" East (M) a distance of 26.34 feet (M) to a point;

Thence South 65°08'51" East (M) a distance of 28.03 feet (M) to a point;

Thence South 66°49'20" East (M) a distance of 27.19 feet (M) to a point;

Thence South 69°43'39" East (M) a distance of 26.80 feet (M) to a point;

Thence South 73°05'45" East (M) a distance of 26.15 feet (M) to a point;

Thence South 77°04'36" East (M) a distance of 26.31 feet (M) to a point;

Thence South 79°42'59" East (M) a distance of 25.10 feet (M) to a point;

Thence South 84°15'09" East (M) a distance of 25.28 feet (M) to a point;

Thence South 88°18'31" East (M) a distance of 24.88 feet (M) to a point;

Thence South 87°23'57" East (M) a distance of 25.13 feet (M) to a point;

Thence South 85°44'43" East (M) a distance of 25.15 feet (M) to a point;

Thence South 85°18'12" East (M) a distance of 25.10 feet (M) to a point;

Thence South 84°19'49" East (M) a distance of 25.34 feet (M) to a point;

Thence South 84°48'18" East (M) a distance of 23.89 feet (M) to a point;

Thence South 85°06'20" East (M) a distance of 26.46 feet (M) to a point;

Thence South 89°21'42" East (M) a distance of 25.03 feet (M) to a point;

Thence North 89°18'32" East (M) a distance of 24.84 feet (M) to a point;

Thence North 87°11'25" East (M) a distance of 24.91 feet (M) to a point;

Thence South 89°16'56" East (M) parallel with and southerly of the North line of said Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5 a distance of 15.05 feet (M) to a point lying 71.62 feet southerly of the North line and 85.00 feet westerly of the East line of said SE¼NE¼ of Section 5;

Thence North 00°23'10" West (M) parallel with and 85.00 feet westerly of the East line of said Section 5 a distance of 71.62 feet (M) to the **TRUE POINT OF BEGINNING**;

Said parcel contains 26,445 square feet or 0.6071 of an acre, more or less.



Expires 3/31/15

Exhibit 2
Temporary Construction Easement

For ten dollars and other valuable consideration, Hospital District No. 1 of Yuma County, Arizona (**Grantor**) grants to the City of Yuma (**Grantee**), a Temporary Construction Easement (TCE) in, on, and under the real property described in the attached and incorporated Exhibit A. This temporary construction easement authorizes use of the described real property by Grantee, the Yuma County Flood Control District and/or either of the Flood Control District or the Grantee’s agents, for purposes related to the construction of a flood control retention/detention basin adjacent to the area described in Exhibit A. This TCE shall be effective beginning on November 12, 2014 (the “Effective Date”) and shall expire November 12, 2017.

Grantee shall remove any soil, equipment or debris from the TCE area and return the described real property to the Grantor in a condition as close as practicable to the condition of the site at the Effective Date. Nothing in this TCE shall be construed as granting title to the TCE real property or any right of entry to the TCE property after expiration of this TCE. Grantee shall hold Grantor harmless and indemnify and defend Grantor from any and all claims, lawsuits and actions concerning Grantee’s use of the TCE.

IN WITNESS WHEREOF, the Grantor has executed this Temporary Construction Easement this _____ day of _____, 201____.

Hospital District No. 1, Yuma County, Arizona
A political subdivision of the State of Arizona

Patricia Ware
Chairman

State of Arizona)
) ss
County of Yuma)

The foregoing First Amendment to YRMC Development Agreement was acknowledged before me this _____ day of _____, 201____ by Patricia Ware, the Chairman of the Hospital District No. 1, Yuma County, Arizona, a political subdivision of the State of Arizona, on behalf of the Hospital District.

My Commission Expires: _____
Notary Public

Exhibit A to Temporary Construction Easement

PARCEL DESCRIPTION FOR TEMPORARY CONSTRUCTION EASEMENT

A PARCEL OF LAND SITUATED IN THAT CERTAIN PARCEL CONVEYED TO HOSPITAL DISTRICT NO. 1 IN INSTRUMENT RECORDED IN DOCKET 195 ON PAGE 159, OF DEEDS IN THE OFFICIAL RECORDS OF YUMA COUNTY, ARIZONA, AND LYING IN GLO LOT 1 OF SECTION 5, TOWNSHIP 9 SOUTH, RANGE 23 WEST OF THE GILA AND SALT RIVER MERIDIAN, YUMA COUNTY, ARIZONA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID GLO LOT 1 OF SECTION 5, BEING MONUMENTED WITH A 3 INCH BRASS CAP, BEARING NORTH 00 DEGREES 49 MINUTES 31 SECONDS WEST, 1322.35 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 5, ALSO BEING MONUMENTED WITH A BRASS CAP;

THENCE NORTH 89 DEGREES 43 MINUTES 40 SECONDS WEST, ALONG AND WITH THE SOUTH LINE OF SAID LOT 1, 833.82 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89 DEGREES 43 MINUTES 40 SECONDS WEST, 80.98 FEET TO A POINT FROM WHICH A ½ INCH REBAR WITH CAP STAMPED "LS 16587" AT THE INTERSECTION OF SAID SOUTH LINE WITH THE EASTERLY RIGHT OF WAY LINE OF THE EAST MAIN CANAL BEARS NORTH 89 DEGREES 43 MINUTES 40 SECONDS WEST, 26.22 FEET;

THENCE NORTH 54 DEGREES 50 MINUTES 06 SECONDS WEST, 34.96 FEET;

THENCE SOUTH 89 DEGREES 43 MINUTES 40 SECONDS EAST, 109.65 FEET;

THENCE SOUTH 00 DEGREES 16 MINUTES 20 SECONDS WEST, 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 1,906 SQUARE FEET OR 0.044 ACRES OF LAND, MORE OR LESS.

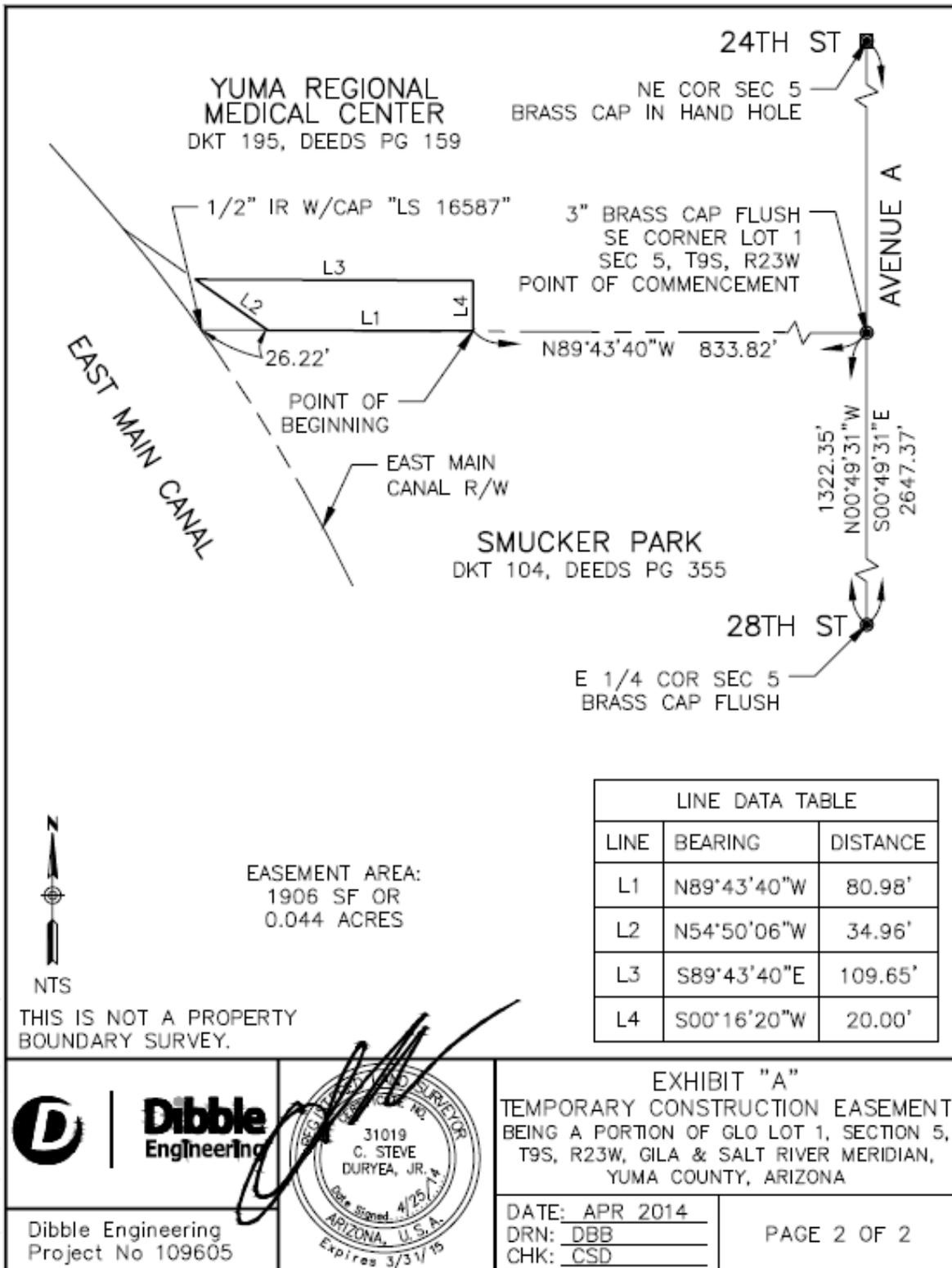
THE ATTACHED EXHIBIT 'A' IS TO BE INCLUDED AND MADE PART OF THIS DESCRIPTION.



YRMC TCE

April, 2014
Page 1 of 2

DIBBLE ENGINEERING
PROJECT NO. 109605



FILE:\PROJECTS\109605\109605.dwg DATE: Apr. 25 2014 TIME: 11:34 am



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

December 3, 2014

DEPARTMENT:

Public Works

DIVISION:

Engineering

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

TITLE:

License Agreement: Joseph W. Fisher II & Barbara A. Fisher Trust

SUMMARY RECOMMENDATION:

Authorize the City Administrator to execute a License Agreement (License) to permit the Fisher Trust to utilize City rights-of-way adjacent to their property for landscaping and automobile display pads.

REPORT:

Plan review of the new Fisher Dodge dealership project showed that the dealership was using a portion of City right-of-way, formally Arizona Department of Transportation (ADOT) right-of-way, for landscaping and automotive display pads without a written agreement.

The attached License will permit Fisher Chrysler, Dodge, Jeep, Inc. the continued use of City right-of-way in exchange for a covenant that if any affiliate of the Fisher Trust opens a new dealership in Yuma County, such dealership will be located within the City of Yuma municipal boundaries. Under the License, Fisher Trust will indemnify and defend the City from all claims related to the use of the License, and will assume responsibility for costs related to the installation, construction and maintenance of the landscaping, including electrical and irrigation costs in the City right-of-way. The License is revocable with 90 days written notice, or such shorter notice as may be required in the event of an emergency.

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 type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:			DATE:
	Gregory K. Wilkinson			11/25/2014
	REVIEWED BY CITY ATTORNEY:			DATE:
	Steven W. Moore			11/25/2014
	RECOMMENDED BY (DEPT/DIV HEAD):			DATE:
Joshua Scott			11/18/2014	
WRITTEN/SUBMITTED BY:			DATE:	
Andrew McGarvie/Teresa Blackburn			10/17/2014	

RESOLUTION NO. R2014-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND APPROVING A LICENSE AGREEMENT WITH THE JOSEPH W. FISHER II AND BARBARA A. FISHER TRUST PERMITTING USE OF ADJACENT CITY OF YUMA RIGHT-OF-WAY FOR LANDSCAPING AND AUTOMOBILE DISPLAY FOR PROPERTY LOCATED AT 349-359 E. 32ND STREET

WHEREAS, the Joseph W. Fisher II and Barbara A. Fisher Trust (Owner) seeks an agreement (License) licensing and permitting Owner and Fisher Chrysler, Dodge, Jeep, Inc. to use adjacent City of Yuma rights-of-way for the purpose of landscaping the right-of-way and utilizing the four existing automobile display pads within the landscaped area located within City right-of-way; and,

WHEREAS, Owner acknowledges that the City of Yuma retains a utility easement where Owner intends to install paving and fingers of landscaping as depicted on Exhibit 3 attached to the License, and that Owner installs such paving and landscaping at Owner's sole cost and risk with full knowledge that the City may need to access the utility easement for maintenance, repair, operations, failure or installation of utilities; and,

WHEREAS, Owner acknowledges that the City of Yuma shall not be responsible for damage to Owner's private or personal property or improvements within the utility easement in the event that operation, maintenance, repair, failure or installation of utilities becomes necessary; and,

WHEREAS, Owner agrees that as consideration and for the duration of the License, any new Yuma County automobile dealership or franchise of Owner or any of Owner's associate entities (as defined in the attached License) shall be opened within the Yuma City limits.

NOW therefore be it resolved by the City Council of the City of Yuma as follows:

SECTION 1: The License, attached as Exhibit A and by this reference incorporated into this Resolution, is approved according to its terms.

SECTION 2: The City Administrator is authorized and directed to execute the License on behalf of the City of Yuma.

Adopted this ____ day of _____ 2014.

APPROVED

Douglas J. Nicholls
Mayor

ATTEST:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Steven W. Moore
City Attorney

Exhibit A
Fisher Trust License Agreement

This License Agreement (“License”) is made and entered into by the City of Yuma, an Arizona municipal corporation (“City”) and the Joseph W. Fisher II and Barbara A. Fisher Trust dated April 1, 1999 (“Owner”) as the owner of those certain parcels of real property (“Property”) located at 349 E. 32nd Street, 555 E. 32nd Street, and 559 E. 32nd Street, legally described in Exhibit 1 and depicted in Exhibit 2.

Recitals

WHEREAS, Owner seeks a license to utilize City right-of-way for landscaping and automobile display pads, and intends to landscape, pave and install automobile display pads in a City utility easement as depicted on the attached Exhibit 3; and,

WHEREAS, in addition to depicting the Property, Exhibit 2 also depicts City right-of-way owned in fee simple that is currently landscaped and includes automobile pads constructed in 1999 as part of a City of Yuma Capital Improvement Project when Arizona Department of Transportation (“ADOT”) controlled the 32nd Street right-of-way; and,

WHEREAS, Exhibit 2 also depicts a City of Yuma utility easement which in the past, has been paved and utilized as automobile display and parking for the Property as well as a City right-of-way which has been landscaped with automobile display pads; and,

WHEREAS, Fisher Chrysler, Dodge, Jeep, Inc., is currently located on the Property, and is demolishing and reconstructing its building, offices, showroom and parking lot; and,

WHEREAS, Fisher Chrysler, Dodge, Jeep, Inc. and Owner desire to keep the landscaping and display pads in the City right-of-way in order to provide Owner with the flexibility to design an attractive, business friendly area; and,

WHEREAS, Owner agrees that for as long as this License is valid and in effect, if Owner or any of Owner’s associate entities (as defined in Section 6 of this Agreement) opens another automobile or motor vehicle franchise or dealership within Yuma County, Owner covenants that such associate entity franchise or dealership shall be located within the City of Yuma municipal boundary,

NOW THEREFORE, in consideration of the recitals set forth above, the Parties agree as follows:

1. License. The City grants a License to Owner to landscape and maintain the City of Yuma right-of-way north of and adjacent to Owner’s Property to the back of curb on the south side of 32nd Street in accordance with Exhibit 3. Such License includes the placement and use of existing automobile display pads within the right-of-way. The automobile display pads shall only be used for the display of automobiles, including trucks, for sale by Fisher Chrysler, Dodge, Jeep, Inc. in accordance with the terms of this License.

2. License includes Utility Easement. The License described in Section 1 includes a license to install pavement , landscaping and/or display pads over the City's utility easement recorded as part of Fee # 1998-28333, so long as such paving and/or landscaping is performed at Owner's risk. Owner's risk means that in the event of failure, repair, installation, maintenance, or replacement of any utility currently located or to be located within the easement, Owner agrees that Owner shall have no claim whatsoever against the City for business interruption, loss of business, for the cost of repair, replacement, storage, or any damages to Owner's paving, personal property, inventory, or landscaping within the utility easement, or any other claim against the City related to the City's operation, maintenance, failure, repair, work, or installation of utilities within the described easement.
3. Landscaping. The landscaping plan and automobile displays shown in the attached Exhibit 3 is approved.
4. Revocation. The City Engineer may revoke this License with ninety (90) days written notice, or on such shorter notice as may be required in the case of an emergency.
5. Non-transferrable or assignable. This License is not intended to run with the land or create any property rights. As such, this License is personal to Owner for use by Fisher Chrysler, Dodge, Jeep, Inc., and may not be transferred or assigned without the approval of City Council. Any attempt to transfer or assign this License shall result in automatic voiding of the License.
6. Definitions. "Owner's associate entities" means any business, limited liability company, corporation, trust, or partnership in which Joseph W. Fisher II or any family member of Joseph W. Fisher II (within the third degree of sanguinity) owns, is a member, beneficiary, trustee, partner, or more than 5% stockholder of the corporation's stock.
7. Owner's Obligations. Owner agrees to pay all maintenance, electrical and irrigation costs of landscaping the City of Yuma right-of-way under this License. No signs shall be placed in the City of Yuma right-of-way. The City Building Official, Director of Community Development or City Engineer shall have the right to remove any advertising material placed in the City right-of-way that does not, or would not comply with the Yuma City Code if the right-of-way were owned by Owner. Owner agrees to indemnify and defend and hold the City harmless from and against any and all claims or damages related to Owner's use of this License. If Owner or any of Owner's associate entities (as defined in Section 6 of this Agreement) opens another automobile or motor vehicle franchise or dealership within Yuma County, Owner covenants that such associate entity franchise or dealership shall be located within the City of Yuma municipal boundary.

REMAINDER OF PAGE INTENTIONALLY BLANK

Dated and effective this _____ day of _____, 201__.

City of Yuma

Joseph W. Fisher II and Barbara A. Fisher
Trust dated April 1, 1999

By _____
Gregory K. Wilkinson
City Administrator

By _____
Joseph W. Fisher II
Trustee

Attested:

By _____
Lynda L. Bushong
City Clerk

By _____
Barbara A. Fisher
Trustee

Approved as to form:

By _____
Steven W. Moore
City Attorney

Exhibit 1
(Legal Description of Property)

Assessor's Parcel Number 695-36-002, FEE # 1999-14707 Y.C.R.

The East half of the Northwest quarter of the Northeast quarter of the Northeast quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 9, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, State of Arizona;

Except the North 75.00 feet thereof described in FEE # 1998-28333 Y.C.R.;

AND

Assessor's Parcel Number 695-36-003, FEE # 2005-21363 Y.C.R.

The South 140.00 feet of the North 240.00 feet of the West 80.00 feet of the Northeast quarter of the Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 9, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, Arizona;

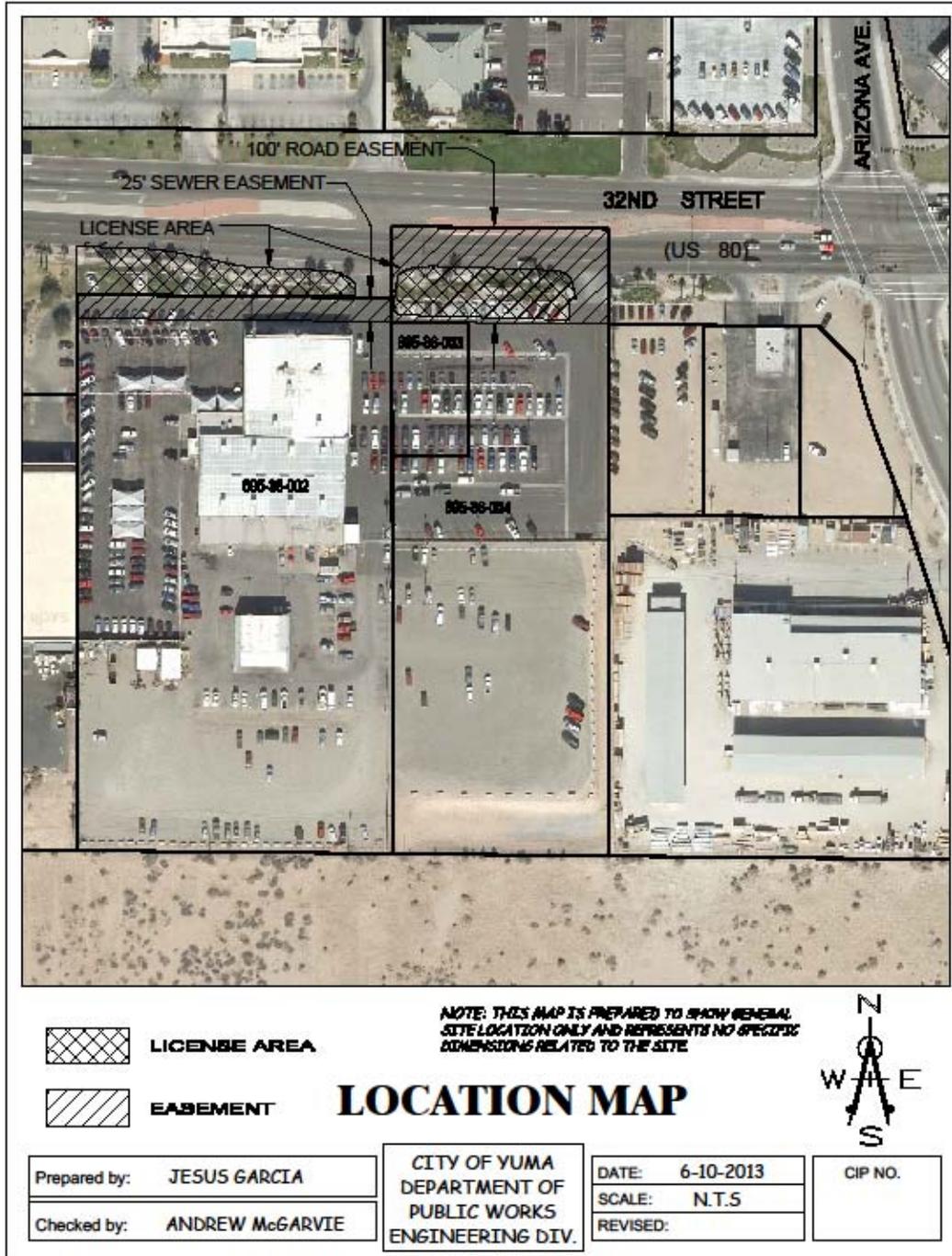
AND

Assessor's Parcel Number 695-36-004, Parcel NO. 2 in FEE # 2004-11964 Y.C.R.

The West 227 feet of the Northeast quarter of the Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 9, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, Arizona;

Except the South 140.00 feet of the North 240.00 feet of the West 80.00 feet of the Northeast quarter of the Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 9, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, Arizona.

Exhibit 2
(Depiction of Property, City of Yuma Right of Way and City of Yuma Utility Easement)





City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 2014

DEPARTMENT: Public Works

DIVISION: Engineering

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

TITLE:
License Agreement: Yuma County Water Users' Association

SUMMARY RECOMMENDATION:
Approve and ratify the City Administrator's execution of Yuma County Water Users' Association Encroachment License No. 001-14-001, authorizing construction and maintenance of landscaping within a portion of the Patterson Lateral right-of-way.

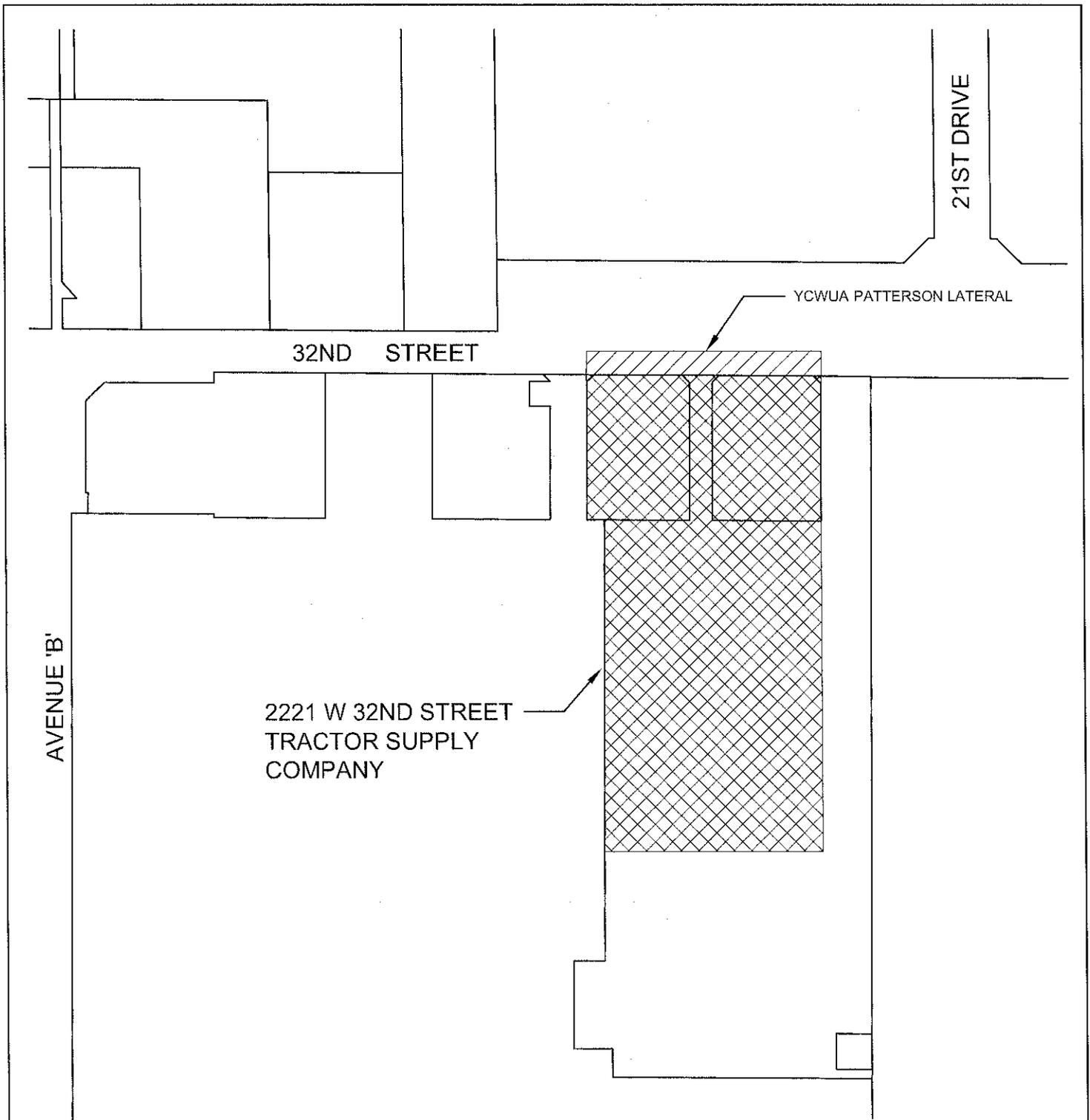
REPORT:
During the design stage of the Tractor Supply Company store project at 2221 W. 32nd Street on property owned by Yuma SW Development Group, LLC (YSWDG), landscaping was placed in the Yuma County Water Users' Association (YCWUA) Paterson Lateral right-of-way.

YCWUA regularly issues encroachment licenses for limited use of right-of-way facilities to governmental entities, for example, the City of Yuma, which then sublicenses use of the right-of-way to a private entity through a sublicense. At this location, where the Tractor Supply Company store has landscaped a portion of the YCWUA right-of-way, YCWUA granted the City Encroachment License No. 001-14-001 in July 2014, making the City responsible for the facility use. The attached resolution authorizes and ratifies the City Administrator's execution of the license agreement with YCWUA.

In a companion resolution to City Council, the City and YSWDG have a *Facilities Maintenance Agreement* which sublicenses the use of the YCWUA right-of-way to the Tractor Supply Company Store property in which YSWDG assumes indemnification responsibility and agrees to pay all costs related to the landscaping, maintenance and use under the sublicense.

YCWUA license No. 001-14-001 will involve payment of \$250.00 for administrative fees, which will be reimbursed to the City by YSWDG.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
		\$0.00		
		\$0.00		
TOTAL:	\$0.00			
FISCAL IMPACT STATEMENT: Tractor Supply Company, Inc will pay the administrative fees charged by the Yuma County Water Users' Associaton for Encroachment License No. 001-14-001.				
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		11/25/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		11/25/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Joshua Scott		11/18/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Andrew McGarvie/Teresa Blackburn		10/2/2014		



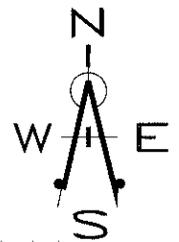
AFFECTED AREA



YCWUA PATTERSON LATERAL

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:	JOSH SCOTT

CITY OF YUMA
DEPARTMENT OF
PUBLIC WORKS
ENGINEERING DIV.

DATE:	11-20-2014
SCALE:	N.T.S
REVISED:	

PROJECT:	
----------	--

RESOLUTION NO. R2014-46

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA,
AUTHORIZING YUMA COUNTY WATER USERS' ASSOCIATION, VALLEY
DIVISION, YUMA PROJECT, ENCROACHMENT LICENSE NO. 001-14-001**

WHEREAS, the Yuma County Water Users' Association, Valley Division, Yuma Project (YCWUA), acting on behalf of the United States Department of the Interior, Bureau of Reclamation, has developed license and permit documentation to allow the construction and encroachment of a number of facilities, including roadways, drainage, and utilities, upon properties that fall under the authority of the Association; and,

WHEREAS, YCWUA has issued Encroachment License No. 001-14-001 to the City of Yuma (City) for certain landscaping activities located at 2221 W. 32nd Street within the Association's Patterson Lateral rights-of-way; and,

WHEREAS, the construction and maintenance of landscaping pursuant to the Yuma City Code necessitate the encroachment upon YCWUA Patterson Lateral rights-of-way; and,

WHEREAS, the encroachment for landscaping will require that the City execute Encroachment License No. 001-14-001.

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

SECTION 1: The Yuma County Water Users' Association, Valley Division, Yuma Project Encroachment License No. 001-14-001 is approved, according to its terms.

SECTION 2: The City Administrator is authorized and directed to execute Encroachment License No. 001-14-001, attached as Exhibit A and by this reference incorporated as a part of this Resolution.

SECTION 3: All prior actions of City staff with regard to executing YCWUA Encroachment License No. 001-14-001 are ratified.

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

LICENSE NO. 001-14-001

YUMA COUNTY WATER USERS' ASSOCIATION
P.O. BOX 5775
YUMA, AZ 85366-5775

LICENSE FOR ENCROACHMENTS AND CONSTRUCTION, INSTALLATION,
OPERATION AND MAINTENANCE OF FACILITIES

LICENSEE: CITY OF YUMA

SERIAL NO(S): N/A

DIVISION: N/A

LOCATION: **USBR PATTERSON LATERAL RIGHTS-OF-WAY LOCATED IN
SECTION 8, TOWNSHIP 9 SOUTH, RANGE 23 WEST, G&SRB&M,
YUMA COUNTY, ARIZONA.**

1. Authority. Pursuant to the provisions of United States Department of the Interior, Bureau of Reclamation, Public Notice No. 77 dated February 12, 1960, entitled "Public Notice Announcing Procedures for Processing Water Right Applications and Certain Other Contracts," and more specifically its Paragraph 4. Utilization of Project Rights of Way and Lands of the United States, the Yuma County Water Users' Association (Licensor) licenses the above named Licensee to construct, install, operate and maintain facilities encroaching upon rights-of-way of the United States forming a part of the Valley Division of the Yuma Project, a reclamation project constructed under the laws of the United States.

2. Description of Encroachment. The encroachment shall be constructed and operated only under the terms and conditions of this license and is specifically described as follows:

- a. **INSTALLATION, OPERATION AND MAINTENANCE OF
LANDSCAPING AND APPURTENANCES PARALLELING 32ND STREET
ON THE NORTH SIDE OF ASSESSOR PARCEL NUMBERS 69437019,
020 & 021.**

3. Nature of Right Conferred: Rights of Licensor.

a. The encroachment and consent to construct contained in this license relate only to the rights of the Licensor by virtue of its contractual relationship with the United States Department of Interior, Bureau of Reclamation (USBR) for the maintenance and operation of Federal facilities constituting the Valley Division of the Yuma Project. The lands to which this

license pertains are not owned by the Licensor. Nothing in this license constitutes a representation by the Licensor of any authority to grant a right-of-way across any property owned or controlled by any person other than the Licensor.

b. Any right granted to the Licensee hereunder shall be inferior to the right of the Licensor to operate and maintain project irrigation facilities and to reconstruct, repair or improve any works within said rights-of-way without the consent of the Licensee and without liability for damages caused by any non-negligent act of the Licensor to any facilities or property owned or controlled by the Licensee.

c. Except in the case of emergencies, and when deemed appropriate by the Licensor, the Licensor will provide the Licensee with notice of its intent to construct, repair or improve any works within the portion of the right-of-way wherein the Licensee is encroaching. Notwithstanding the foregoing sentence, the Licensor shall give the Licensee prior notice of its intention to perform any work which will require the closing of a public thoroughfare under the Licensee's jurisdiction, or the interruption of utility services operated or controlled by the Licensee.

d. Notification may be either written or oral and shall be given by the Licensor as soon as practicable. The failure of the Licensor to give the Licensee notice in any case shall not subject the Licensor to any liability whatsoever.

4. Administrative Fee. The Licensee agrees to pay the Licensor an administrative fee along with the necessary inspection costs associated with this Encroachment License. The administrative fee shall be \$200.00 per encroachment per location plus \$50.00, which is to be paid upon submission of the license. Inspection costs will be billed at actual cost within 30 days of completion of construction. The entire administrative fee and associated inspection costs are non-refundable and shall be retained by the Licensor as compensation for costs incurred in processing and administering this license. Upon approval of this license by the Licensor, \$50.00 of the fee shall be paid to the USBR as compensation for their costs incurred pursuant to paragraph 9.

5. Assignments and Sublicenses.

a. The Licensee may not, without the prior written consent of the Licensor and the USBR, assign or otherwise transfer any right created by this license. The Licensee shall not authorize or permit others to utilize any facilities or structures or right-of-way area which are the subject matter of this license in any way not expressly authorized by this license or by the Licensor and the USBR in writing.

b. Any violation of this paragraph shall, at the option of the Licensor and the USBR, constitute grounds for immediate termination of the license without further notice. Upon an election to terminate, any facilities constructed by the Licensee shall be removed in the manner provided in paragraph 11 of this license.

c. Nothing in this paragraph prohibits the Licensee from utilizing the services of a person or entity not a party to this License for the purpose of constructing the encroachment herein contemplated.

6. Licensee's Liability. The Licensee shall be liable for all damages to the property of the United States, the Licensor, or any third party or parties caused by reason of the exercise of the Licensee of any right conferred by this license.

7. Hold Harmless Agreement. To the maximum extent permitted by law, the Licensee agrees to hold forever harmless, indemnify and defend the Licensor and the United States Government, together with all of their respective officers, employees, successors and assigns from any and all claims related to or any way connected with the construction, operation or maintenance of the facilities described in this license. The Licensee's obligation hereunder includes, but is not limited to, the obligation to pay the Licensor attorney fees and costs incurred in connection with any claim without regard to whether such claim results in litigation.

8. Duration of License. This license shall continue in effect so long as the Licensor and the USBR determine, in their sole discretion, that the same is expedient and is not detrimental or incompatible with the proper care, operation and maintenance of the Valley Division and its works.

9. Additional Notification.

a. This license and consent to encroachment, in accordance with the requirements stated in the paragraph 1 authority, shall be furnished by the Licensor for record keeping purposes to the:

Area Manager, Yuma Area Office
United States Bureau of Reclamation
7301 Calle Agua Salada
Yuma, AZ 85364

b. A copy of this license with all attachments shall be mailed by the Licensor to the Area Manager at the above address on the next working day after the date it is fully executed by the Licensee and the Licensor.

c. This license and consent to encroachment are made with the understanding that such issuance does not involve a substantial adverse change in any of the works transferred to the Licensor under the provisions of the Contract for the Care, Operation and Maintenance of Works of the Valley Division, Yuma Project, No. 176r-671, dated June 15, 1951, between the United States of America and the Licensor. Should the Licensor determine that this license and consent to encroachment could potentially involve a substantial adverse change in the works transferred, a statement to that effect shall be made in Paragraph 14. Specifications and Conditions. Subparagraph a. requiring that the license not be considered issued without receiving the advance additional written approval of the Area Manager, with such approval deemed approved by the Area Manager unless the same is disapproved in writing to the Licensor (with a copy to the Licensee) within 45 calendar days after the date it is fully executed by the Licensor. This required Area Managers' approval will also be noted in the forwarding letter to the USBR.

d. In the event of an inadvertent discovery of archaeological or historical cultural resources, the Licensee shall cease all activity in the area of the discovery with respect to Federal lands and Federal facilities, provide immediate telephone notifications of such discovery both to the Licensor by directly contacting the Yuma County Water Users' Association Manager at 928-627-8824 and to the United States Bureau of Reclamation Archeologist at 928-343-8567, and also make all reasonable efforts to protect the cultural resources discovered. The activity may resume only after the USBR has authorized a continuance.

10. Notification of Commencement of Work. The Licensee agrees to provide the Licensor with two (2) working days' notification prior to the actual encroachment and commencement of work. Failure to provide said notification can be sufficient cause to terminate this license and require the removal of facilities in the manner provided in paragraph 11 of this license.

11. Termination.

a. This license and consent to encroach is subject to termination by the Licensor or the United States on thirty (30) days notice all as provided in Public Notice No. 77. The Licensor agrees, however, that, except in the case of emergencies or in cases where the Licensor is requested or directed by the United States to exercise the aforesaid termination provision, this license shall not be terminated on less than six (6) months' prior written notice to the Licensee.

b. In the event this license is terminated, the Licensee agrees to remove all encroachments constructed hereunder within one hundred eighty (180) days after the date of the notice of termination and agrees to return the rights-of-way affected by this license to their original condition (or in a condition acceptable to the Licensor and the USBR) at its sole expense and at no expense to the Licensor or the United States.

c. If the Licensee fails to remove its encroaching facilities as provided above, the Licensor may, without liability for damages to the Licensee, remove such facilities without further notice. The Licensee agrees to pay the Licensor the reasonable cost of the removal of its facilities and the cost of restoring the rights-of-way to their original condition. Payment shall be made by the Licensee to the Licensor within thirty (30) days after the receipt of a statement of costs from the Licensor.

12. Consent to Encroachment: Extent of Consent.

a. The Licensor, for itself and on behalf of the United States, consents to the Licensee's encroachment upon Federal rights-of-way as described in this license and its attachments.

b. Nothing in this license constitutes a grant or other disposition of any land or interest in land which is owned or otherwise occupied by the United States. The Licensee shall not authorize or permit encroachment of any kind by persons not partied to this license or permit the planting of trees upon the encroachment area or otherwise utilize the encroachment area in any manner which may, in the opinion of the Licensor or the USBR, endanger or interfere with the proper use and operation of any works or property of the United States or the Licensor.

c. Any violation of this paragraph shall constitute grounds for immediate termination of this license without further notice. Upon such termination, all encroaching facilities constructed hereunder shall be removed in the manner provided in paragraph 11 of this license.

13. Plans and Specifications: Construction. All structures constructed under this license shall be erected in accordance with plans and specifications approved in advance by the Licensor as herein provided and shall be erected in such a manner as not to obstruct in any manner the flow of water in the canals, laterals or drain ditches of the United States or the Licensor or to interfere in any manner whatsoever with the construction, operation and maintenance of any part of the project by the Licensor or the United States.

14. Specifications and Conditions.

a. The encroachment and the erection of structures of facilities under the terms of this license shall be in accordance with the plans, specifications and conditions described below:

1) PLANS TITLED 'TRACTOR SUPPLY COMPANY', SHEET NO. L1 OF 4, DATED 3-10-14, DRAWN FOR YUMA SW DEVELOPMENT GROUP, LLC.

2) NO LARGE TREES WITHIN USBR RIGHTS-OF-WAY.

All of the foregoing plans, specifications and conditions are made a part of this license and are subject to the prior approval of the Licensor.

b. Any proposed variation in construction or operation of encroaching facilities from approved plans and specifications must be approved in writing by the Licensor before construction or operation. If any proposed variation is, in the opinion of the Licensor substantial in nature, notification of such approval and any appropriate revised plans will be provided to the USBR.

c. The Licensee shall, within 15 calendar days of completion of the encroachment(s), submit two (2) copies of as-built drawings to the Licensor. The Licensor shall provide one (1) copy of these submitted as-built drawings to the USBR. The Licensee shall also provide one (1) additional copy of the as-built drawings to any other party or entity associated with this encroachment or as requested by the Licensor. Should there be no changes in the actual work from the planned work and encroachment, these as-built drawings will still be required. In this case the original drawings may be submitted with the notation that the encroachment was accomplished exactly as originally submitted.

15. Increased Operation and Maintenance Expense.

a. If the construction and placement of facilities by the Licensee under the terms of this license increase the costs to the Licensor, or its successors, of operation and maintenance functions on the right-of-way herein described, it is agreed that the amount of any such increase shall be paid by the Licensee.

b. Payments under the terms of this paragraph shall be made monthly, or at such other time or times as the Licensor may elect, and shall be made on the basis of statements furnished by the Licensor to the Licensee describing with reasonable particularity the nature and extent of all charges claimed.

c. The amount of any increased operation and maintenance charges payable by the Licensee under this paragraph shall be determined by the Licensor. Any dispute between the Licensor and the Licensee as to the appropriateness or amount of any increased operations and maintenance charge claimed by the Licensor shall be resolved by the Area Manager, Yuma Area Office, USBR. The determination of the Area Manager shall be conclusive upon both parties, unless either party determines to bring a cause of action to resolve the dispute.

16. Attorney Fees. If either party commences a legal action to enforce any term or condition of this license, it is understood and agreed that the prevailing party in any such litigation shall be entitled to recover a reasonable sum as and for attorney fees, said sum to be fixed by the Court. The provisions of this paragraph are supplemental to the provisions of paragraph 7.

17. Covenant Against Contingent Fees.

a. The Licensee warrants that no person or agency has been employed or retained to solicit or secure this license upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the Licensee for the purpose of securing business.

b. Any breach of the provisions of this paragraph shall, at the option of the Licensor, constitute grounds to terminate this license without further notice and without liability for damages of any type.

c. In the event of a termination under the provisions of this paragraph, the Licensee agrees to remove all encroaching facilities in the manner provided in paragraph 11 of this license.

Licensee: CITY OF YUMA

s/ [Signature]
Name: Gregory K. Wilkinson
Title: City Administrator
Representing:
CITY OF YUMA

Approval Date July 8, 2014

One City Plaza, PO Box 13014
Yuma, AZ 85366-3014
(Address)
928-373-5011
(Phone Number)

Approved:

s/ _____
Name: Tom W. Davis
Title: Manager
Representing:
YUMA COUNTY WATER USERS'
ASSOCIATION

Approval Date _____

Attested:

[Signature]
By: _____
Title: City Clerk

Dated: July 8, 2014

Approved as to Form:

[Signature]
Steven W. Moore
City Attorney

Dated: 7/7/2014

cc: United States Bureau of Reclamation
Area Manager, Yuma Area Office
7301 Calle Agua Salada
Yuma, AZ 85364



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 2014

DEPARTMENT: Public Works

DIVISION: Engineering

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

TITLE:
Facilities Maintenance Agreement: Yuma SW Development Group LLC

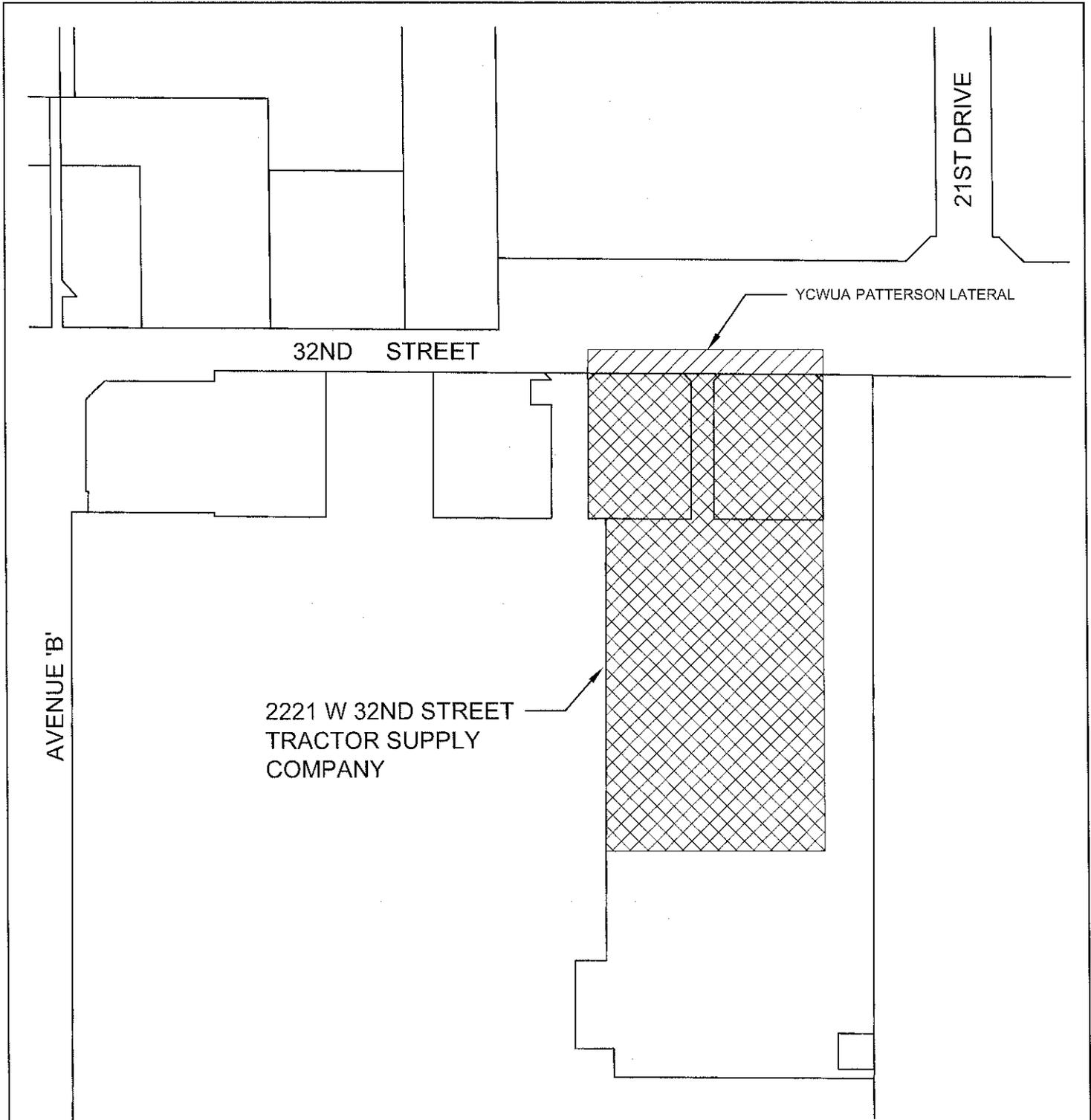
SUMMARY RECOMMENDATION:
Authorize the City Administrator to execute a Facilities Maintenance Agreement (sublicense) permitting Yuma SW Development Group, LLC, a North Carolina limited liability company, to use Yuma County Water Users' Association property under a license granted to the City of Yuma.

REPORT:
During the design stage of the Tractor Supply Company store project at 2221 W. 32nd Street on property owned by Yuma SW Development Group, LLC (YSWDG), landscaping was placed in the Yuma County Water Users' Association (YCWUA) Patterson Lateral right-of- way.

YCWUA issued Encroachment License No. 001-14-001 to the City of Yuma (City) in July 2014, making the City responsible for the facility use and authorizing landscaping in accordance with plans submitted by the Tractor Supply Company. In a companion resolution, the City Council is taking action to approve and ratify the YCWUA license to the City. In this proposed resolution, the City Council will take action to approve the execution of the sublicense (Facilities Maintenance Agreement) between YSWDG and the City of Yuma. The sublicense requires YSWDG to indemnify the City and YCWUA, and also bear all costs and expenses relating to landscaping a portion of the Patterson Lateral right-of-way. The sublicense is subordinate to and terminates automatically upon the termination of the YCWUA license to the City.

A location map is attached for reference.

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: Yuma SW Development, LLC as part of the Facilities Maintenance Agreement will pay the \$250 administration fee due to the Yuma County Water Users' Association for the Encroachment License No. 001-14-001.			
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		11/25/2014	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		11/25/2014	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Joshua Scott		11/18/2014		
WRITTEN/SUBMITTED BY:		DATE:		
Andrew McGarvie/Teresa Blackburn		10/02/2014		



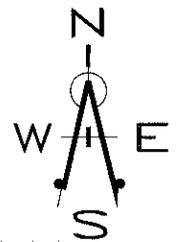
AFFECTED AREA



YCWUA PATTERSON LATERAL

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:	JOSH SCOTT

CITY OF YUMA
DEPARTMENT OF
PUBLIC WORKS
ENGINEERING DIV.

DATE:	11-20-2014
SCALE:	N.T.S
REVISED:	

PROJECT:	
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RESOLUTION NO. R2014-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING THE EXECUTION OF A FACILITIES MAINTENANCE AGREEMENT WITH THE YUMA SW DEVELOPMENT GROUP, LLC

WHEREAS, the Yuma SW Development Group, LLC, a North Carolina limited liability company, is the owner of real property located at 2221 W. 32nd Street, Parcel 2A of the Pavia Properties Inc. Lot Tie / Lot Split recorded in Book 27 of Plats, Page 20, FEE # 2014-10207, Yuma County Recorder; and,

WHEREAS, the Yuma County Water Users' Association's (YCWUA) owns the Patterson Lateral right-of-way, located between 7 feet and 52 feet south of the north line of Section 8, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, between the East Main Canal and Avenue B, also described as the United States Department of the Interior Bureau of Reclamation (USBR) Patterson Lateral as shown in USBR drawing # 35-303-623; and,

WHEREAS, the Yuma SW Development Group, LLC seeks to utilize a portion of the Patterson Lateral right-of-way controlled by the YCWUA for purposes of landscaping along the south side of 32nd Street; and,

WHEREAS, YCWUA granted the City of Yuma License No. 001-14-001 titled "License For Encroachments and Construction, Installation, Operation and Maintenance of Facilities" (License); and,

WHEREAS, the City of Yuma agrees to sublicense Yuma SW Development Group, LLC the use of the described right-of-way under the City of Yuma's License for purposes of encroachment, construction, installation, operation and maintenance of landscaping; and,

WHEREAS, the Yuma SW Development Group, LLC recognizes the terms of the City's sublicense titled, *Facilities Maintenance Agreement*, is subordinate to and subject to the terms of License No. 001-14-001 and that the License is revocable at will by the Yuma County Water Users' Association.

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

SECTION 1: The *Facilities Maintenance Agreement* attached as Exhibit 1 and by this reference incorporated as a part of this Resolution, is approved according to its terms.

SECTION 2: The City Administrator is authorized and directed to execute the *Facilities Maintenance Agreement* on behalf of the City of Yuma.

Adopted this _____ day of _____, 2014.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

APPROVED AS TO FORM:

Lynda L. Bushong
City Clerk

Steven W. Moore
City Attorney

FACILITIES MAINTENANCE AGREEMENT

THIS FACILITIES MAINTENANCE AGREEMENT (“Sublicense”) is entered into this ____ day of _____, 201____ by and between the City of Yuma, an Arizona municipal corporation (“City”) and Yuma SW Development Group, LLC, a North Carolina limited liability company (“Sublicensee”), concerning the property (the “Property”) described as:

Landscaping a portion of the Patterson Lateral rights-of-way in accordance with approved landscaping and drainage plans. The Patterson Lateral rights-of-way is located between 7 feet and 52 feet south of the north line of Section 8, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, between the Eastmain Canal and Avenue B, also described in United States Department of the Interior Bureau of Reclamation (a.k.a. USBR) “Patterson Lateral” as shown in (USBR) drawing # 35-303-623

RECITALS

WHEREAS the Yuma County Water Users’ Association has granted a license to the City of Yuma under License No. 001-14-001 titled "License For Encroachments and Construction, Installation, Operation and Maintenance of Facilities” as may be amended from time-to-time (“License”), a copy of which is attached as Exhibit “A” and whose terms are incorporated here by reference and acknowledged by Yuma SW Development Group, LLC through the signature of its authorized agent on this Facilities Maintenance Agreement; and,

WHEREAS the City of Yuma agrees to permit Sub-licensee the use of the Property under the City of Yuma's License for purposes of encroachment, construction, installation, operation and maintenance of landscaping of the Property; and,

WHEREAS the Sub-licensee recognizes the terms of this Agreement are subordinate to and subject to the terms contained in License No. 001-14-001 and that the License is revocable at will by the Yuma County Water Users’ Association; and,

THEREFORE in consideration of the City's willingness to permit Sub-licensee to use the Property under the City's License, the Sub-licensee agrees and covenants the following:

1) Non-Permitted Uses. Sub-licensee shall not permit any use, encroachment, construction, installation, operation, maintenance or trespass by any persons upon the Property or property of the Yuma County Water Users’ Association, except as specifically described in License No. 001-14 -001.

2) Non-Assignable. Sub-licensee shall not assign any of its rights under this agreement without a separate written agreement executed by the City.

4) Indemnification. Sub-licensee shall indemnify the City, the United States Government, and the Yuma County Water Users’ Association for any and all damages to the property of the United States, the Yuma County Water Users' Association, the City, or any third party or parties caused by reason of Sub-licensee’s use of the Property.

5) Hold Harmless Agreement. To the maximum extent permitted by law, Sub-licensee agrees to hold forever harmless, indemnify and defend the City, the United States Government and the Yuma County Water Users' Association, together with all of their respective officers, employees, successors and assigns from any and all claims related to or in any way connected with Sub-licensee's construction, operation or maintenance of landscaping or use of the Property. Sub-licensee's obligation hereunder includes, but is not limited to, the obligation to pay the City's and other indemnified parties' attorney fees and costs incurred in connection with any claim, including any costs for attorney's fees chargeable to the City as described in the License and any other costs or fee chargeable to the City as described in the License, even if such claim does not result in litigation. Sub-licensee and its insurer agree to waive subrogation against the City and the Yuma County Water Users' Association and shall name each as additional insured on its insurance policy, with the endorsement of coverage to be primary and in an amount of not less than \$1,000,000 liability per occurrence with a 30 day notice of cancellation provision. The terms and obligations of this paragraph and paragraph four above shall survive termination of this Sub-license and/or termination of the License.

6) Notice of Commencement of Work. Sub-licensee agrees to provide written notice to both Yuma County Water Users' Association and the City seven working days prior to commencing the actual encroachment and work. Such notice shall be sent to each address listed below:

Yuma County Water Users' Association
Attention: Tom Davis, Manager
PO Box 5775
Yuma, Arizona 85366-5775

City of Yuma Public Works
Attention: Public Works Director
155 West 14th Street
Yuma, Arizona 85364

7) Notice of Archaeological Find. Sub-licensee agrees to notify the appropriate parties in the event of any archaeological or historical culture find as specified in paragraph 9(d) of the License.

8) Plans and Specifications. Any and all construction or use under this Agreement shall be in accordance with plans and specifications as described in paragraphs 13 and 14 of the License.

9) Responsibility for Increased Operating Costs. In the event any construction or use under this Sublicense results in increased operation and/or maintenance expense to the Yuma County Water Users' Association or the City of Yuma, Sub-licensee agrees to pay the amount of any such increase in accordance with the terms and conditions of paragraph 15 of the License. Sub-licensee shall reimburse the City for the City's cost of the License.

10) Payment of Legal Expense and Venue. If any party commences a legal action to enforce any term or condition of this Facilities Maintenance Agreement, it is understood and agreed that any cause of action shall be filed in the Yuma County Superior Court and that the prevailing party shall be entitled to recover a reasonable sum as and for attorney fees and costs as fixed by the Court.

11) Termination. Sub-licensee agrees that this Facilities Maintenance Agreement may be terminated by either of: a) the City's delivering ten days written notice of such termination to Sub-licensee or its officers, attorney or agent; b) termination of the underlying License as prescribed in paragraph 11 of the License; or c) cessation or abandonment of use of the facilities by Sub-licensee.

12) Duties Upon Termination. In the event of termination of the License or this Facilities Maintenance Agreement, Sub-licensee shall comply with all terms in paragraph 11 of the License and bear all costs related to termination of the License including removing all encroachments constructed under the License or Facilities Maintenance Agreement within one hundred eighty (180) days after the date of notice of termination. Sub-licensee further agrees to return the rights-of-way affected by the License to their original condition (or in a condition acceptable to the City, the Yuma County Water Users' Association and the United States Bureau of Reclamation) at Sub-licensee's sole expense.

EXECUTED this _____ day of _____, 2014.

Yuma SW Development Group, LLC

City of Yuma

Ralph J. Ronalter, Jr.
Manager

Gregory K. Wilkinson
City Administrator

ATTESTED:

William C. Ronalter
Manager

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Steven W. Moore
City Attorney

YUMA COUNTY WATER USERS' ASSOCIATION
P.O. BOX 5775
YUMA, AZ 85366-5775

LICENSE FOR ENCROACHMENTS AND CONSTRUCTION, INSTALLATION,
OPERATION AND MAINTENANCE OF FACILITIES

LICENSEE: CITY OF YUMA

SERIAL NO(S): N/A

DIVISION: N/A

LOCATION: **USBR PATTERSON LATERAL RIGHTS-OF-WAY LOCATED IN
SECTION 8, TOWNSHIP 9 SOUTH, RANGE 23 WEST, G&SRB&M,
YUMA COUNTY, ARIZONA.**

1. Authority. Pursuant to the provisions of United States Department of the Interior, Bureau of Reclamation, Public Notice No. 77 dated February 12, 1960, entitled "Public Notice Announcing Procedures for Processing Water Right Applications and Certain Other Contracts," and more specifically its Paragraph 4. Utilization of Project Rights of Way and Lands of the United States, the Yuma County Water Users' Association (Licensor) licenses the above named Licensee to construct, install, operate and maintain facilities encroaching upon rights-of-way of the United States forming a part of the Valley Division of the Yuma Project, a reclamation project constructed under the laws of the United States.

2. Description of Encroachment. The encroachment shall be constructed and operated only under the terms and conditions of this license and is specifically described as follows:

- a. **INSTALLATION, OPERATION AND MAINTENANCE OF
LANDSCAPING AND APPURTENANCES PARALLELING 32ND STREET
ON THE NORTH SIDE OF ASSESSOR PARCEL NUMBERS 69437019,
020 & 021.**

3. Nature of Right Conferred: Rights of Licensor.

a. The encroachment and consent to construct contained in this license relate only to the rights of the Licensor by virtue of its contractual relationship with the United States Department of Interior, Bureau of Reclamation (USBR) for the maintenance and operation of Federal facilities constituting the Valley Division of the Yuma Project. The lands to which this

license pertains are not owned by the Licensor. Nothing in this license constitutes a representation by the Licensor of any authority to grant a right-of-way across any property owned or controlled by any person other than the Licensor.

b. Any right granted to the Licensee hereunder shall be inferior to the right of the Licensor to operate and maintain project irrigation facilities and to reconstruct, repair or improve any works within said rights-of-way without the consent of the Licensee and without liability for damages caused by any non-negligent act of the Licensor to any facilities or property owned or controlled by the Licensee.

c. Except in the case of emergencies, and when deemed appropriate by the Licensor, the Licensor will provide the Licensee with notice of its intent to construct, repair or improve any works within the portion of the right-of-way wherein the Licensee is encroaching. Notwithstanding the foregoing sentence, the Licensor shall give the Licensee prior notice of its intention to perform any work which will require the closing of a public thoroughfare under the Licensee's jurisdiction, or the interruption of utility services operated or controlled by the Licensee.

d. Notification may be either written or oral and shall be given by the Licensor as soon as practicable. The failure of the Licensor to give the Licensee notice in any case shall not subject the Licensor to any liability whatsoever.

4. Administrative Fee. The Licensee agrees to pay the Licensor an administrative fee along with the necessary inspection costs associated with this Encroachment License. The administrative fee shall be \$200.00 per encroachment per location plus \$50.00, which is to be paid upon submission of the license. Inspection costs will be billed at actual cost within 30 days of completion of construction. The entire administrative fee and associated inspection costs are non-refundable and shall be retained by the Licensor as compensation for costs incurred in processing and administering this license. Upon approval of this license by the Licensor, \$50.00 of the fee shall be paid to the USBR as compensation for their costs incurred pursuant to paragraph 9.

5. Assignments and Sublicenses.

a. The Licensee may not, without the prior written consent of the Licensor and the USBR, assign or otherwise transfer any right created by this license. The Licensee shall not authorize or permit others to utilize any facilities or structures or right-of-way area which are the subject matter of this license in any way not expressly authorized by this license or by the Licensor and the USBR in writing.

b. Any violation of this paragraph shall, at the option of the Licensor and the USBR, constitute grounds for immediate termination of the license without further notice. Upon an election to terminate, any facilities constructed by the Licensee shall be removed in the manner provided in paragraph 11 of this license.

c. Nothing in this paragraph prohibits the Licensee from utilizing the services of a person or entity not a party to this License for the purpose of constructing the encroachment herein contemplated.

6. Licensee's Liability. The Licensee shall be liable for all damages to the property of the United States, the Licensor, or any third party or parties caused by reason of the exercise of the Licensee of any right conferred by this license.

7. Hold Harmless Agreement. To the maximum extent permitted by law, the Licensee agrees to hold forever harmless, indemnify and defend the Licensor and the United States Government, together with all of their respective officers, employees, successors and assigns from any and all claims related to or any way connected with the construction, operation or maintenance of the facilities described in this license. The Licensee's obligation hereunder includes, but is not limited to, the obligation to pay the Licensor attorney fees and costs incurred in connection with any claim without regard to whether such claim results in litigation.

8. Duration of License. This license shall continue in effect so long as the Licensor and the USBR determine, in their sole discretion, that the same is expedient and is not detrimental or incompatible with the proper care, operation and maintenance of the Valley Division and its works.

9. Additional Notification.

a. This license and consent to encroachment, in accordance with the requirements stated in the paragraph 1 authority, shall be furnished by the Licensor for record keeping purposes to the:

Area Manager, Yuma Area Office
United States Bureau of Reclamation
7301 Calle Agua Salada
Yuma, AZ 85364

b. A copy of this license with all attachments shall be mailed by the Licensor to the Area Manager at the above address on the next working day after the date it is fully executed by the Licensee and the Licensor.

c. This license and consent to encroachment are made with the understanding that such issuance does not involve a substantial adverse change in any of the works transferred to the Licensor under the provisions of the Contract for the Care, Operation and Maintenance of Works of the Valley Division, Yuma Project, No. 176r-671, dated June 15, 1951, between the United States of America and the Licensor. Should the Licensor determine that this license and consent to encroachment could potentially involve a substantial adverse change in the works transferred, a statement to that effect shall be made in Paragraph 14. Specifications and Conditions. Subparagraph a. requiring that the license not be considered issued without receiving the advance additional written approval of the Area Manager, with such approval deemed approved by the Area Manager unless the same is disapproved in writing to the Licensor (with a copy to the Licensee) within 45 calendar days after the date it is fully executed by the Licensor. This required Area Managers' approval will also be noted in the forwarding letter to the USBR.

d. In the event of an inadvertent discovery of archaeological or historical cultural resources, the Licensee shall cease all activity in the area of the discovery with respect to Federal lands and Federal facilities, provide immediate telephone notifications of such discovery both to the Licensor by directly contacting the Yuma County Water Users' Association Manager at 928-627-8824 and to the United States Bureau of Reclamation Archeologist at 928-343-8567, and also make all reasonable efforts to protect the cultural resources discovered. The activity may resume only after the USBR has authorized a continuance.

10. Notification of Commencement of Work. The Licensee agrees to provide the Licensor with two (2) working days' notification prior to the actual encroachment and commencement of work. Failure to provide said notification can be sufficient cause to terminate this license and require the removal of facilities in the manner provided in paragraph 11 of this license.

11. Termination.

a. This license and consent to encroach is subject to termination by the Licensor or the United States on thirty (30) days notice all as provided in Public Notice No. 77. The Licensor agrees, however, that, except in the case of emergencies or in cases where the Licensor is requested or directed by the United States to exercise the aforesaid termination provision, this license shall not be terminated on less than six (6) months' prior written notice to the Licensee.

b. In the event this license is terminated, the Licensee agrees to remove all encroachments constructed hereunder within one hundred eighty (180) days after the date of the notice of termination and agrees to return the rights-of-way affected by this license to their original condition (or in a condition acceptable to the Licensor and the USBR) at its sole expense and at no expense to the Licensor or the United States.

c. If the Licensee fails to remove its encroaching facilities as provided above, the Licensor may, without liability for damages to the Licensee, remove such facilities without further notice. The Licensee agrees to pay the Licensor the reasonable cost of the removal of its facilities and the cost of restoring the rights-of-way to their original condition. Payment shall be made by the Licensee to the Licensor within thirty (30) days after the receipt of a statement of costs from the Licensor.

12. Consent to Encroachment: Extent of Consent.

a. The Licensor, for itself and on behalf of the United States, consents to the Licensee's encroachment upon Federal rights-of-way as described in this license and its attachments.

b. Nothing in this license constitutes a grant or other disposition of any land or interest in land which is owned or otherwise occupied by the United States. The Licensee shall not authorize or permit encroachment of any kind by persons not partied to this license or permit the planting of trees upon the encroachment area or otherwise utilize the encroachment area in any manner which may, in the opinion of the Licensor or the USBR, endanger or interfere with the proper use and operation of any works or property of the United States or the Licensor.

c. Any violation of this paragraph shall constitute grounds for immediate termination of this license without further notice. Upon such termination, all encroaching facilities constructed hereunder shall be removed in the manner provided in paragraph 11 of this license.

13. Plans and Specifications: Construction. All structures constructed under this license shall be erected in accordance with plans and specifications approved in advance by the Licensor as herein provided and shall be erected in such a manner as not to obstruct in any manner the flow of water in the canals, laterals or drain ditches of the United States or the Licensor or to interfere in any manner whatsoever with the construction, operation and maintenance of any part of the project by the Licensor or the United States.

14. Specifications and Conditions.

a. The encroachment and the erection of structures of facilities under the terms of this license shall be in accordance with the plans, specifications and conditions described below:

1) PLANS TITLED 'TRACTOR SUPPLY COMPANY', SHEET NO. L1 OF 4, DATED 3-10-14, DRAWN FOR YUMA SW DEVELOPMENT GROUP, LLC.

2) NO LARGE TREES WITHIN USBR RIGHTS-OF-WAY.

All of the foregoing plans, specifications and conditions are made a part of this license and are subject to the prior approval of the Licensor.

b. Any proposed variation in construction or operation of encroaching facilities from approved plans and specifications must be approved in writing by the Licensor before construction or operation. If any proposed variation is, in the opinion of the Licensor substantial in nature, notification of such approval and any appropriate revised plans will be provided to the USBR.

c. The Licensee shall, within 15 calendar days of completion of the encroachment(s), submit two (2) copies of as-built drawings to the Licensor. The Licensor shall provide one (1) copy of these submitted as-built drawings to the USBR. The Licensee shall also provide one (1) additional copy of the as-built drawings to any other party or entity associated with this encroachment or as requested by the Licensor. Should there be no changes in the actual work from the planned work and encroachment, these as-built drawings will still be required. In this case the original drawings may be submitted with the notation that the encroachment was accomplished exactly as originally submitted.

15. Increased Operation and Maintenance Expense.

a. If the construction and placement of facilities by the Licensee under the terms of this license increase the costs to the Licensor, or its successors, of operation and maintenance functions on the right-of-way herein described, it is agreed that the amount of any such increase shall be paid by the Licensee.

b. Payments under the terms of this paragraph shall be made monthly, or at such other time or times as the Licensor may elect, and shall be made on the basis of statements furnished by the Licensor to the Licensee describing with reasonable particularity the nature and extent of all charges claimed.

c. The amount of any increased operation and maintenance charges payable by the Licensee under this paragraph shall be determined by the Licensor. Any dispute between the Licensor and the Licensee as to the appropriateness or amount of any increased operations and maintenance charge claimed by the Licensor shall be resolved by the Area Manager, Yuma Area Office, USBR. The determination of the Area Manager shall be conclusive upon both parties, unless either party determines to bring a cause of action to resolve the dispute.

16. Attorney Fees. If either party commences a legal action to enforce any term or condition of this license, it is understood and agreed that the prevailing party in any such litigation shall be entitled to recover a reasonable sum as and for attorney fees, said sum to be fixed by the Court. The provisions of this paragraph are supplemental to the provisions of paragraph 7.

17. Covenant Against Contingent Fees.

a. The Licensee warrants that no person or agency has been employed or retained to solicit or secure this license upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the Licensee for the purpose of securing business.

b. Any breach of the provisions of this paragraph shall, at the option of the Licensor, constitute grounds to terminate this license without further notice and without liability for damages of any type.

c. In the event of a termination under the provisions of this paragraph, the Licensee agrees to remove all encroaching facilities in the manner provided in paragraph 11 of this license.

Licensee: CITY OF YUMA

s/ [Signature]
Name: Gregory K. Wilkinson
Title: City Administrator
Representing:
CITY OF YUMA

Approval Date July 8, 2014
One City Plaza, PO Box 13014
Yuma, AZ 85366-3014
(Address)
928-373-5011
(Phone Number)

Approved:

s/ _____
Name: Tom W. Davis
Title: Manager
Representing:
YUMA COUNTY WATER USERS'
ASSOCIATION

Approval Date _____

Attested:

[Signature]
By: _____
Title: City Clerk

Dated: July 8, 2014

Approved as to Form:

[Signature]
Steven W. Moore
City Attorney

Dated: 7/7/2014

cc: United States Bureau of Reclamation
Area Manager, Yuma Area Office
7301 Calle Agua Salada
Yuma, AZ 85364



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 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: December 3, 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 34th 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 34th 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: December 3, 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:

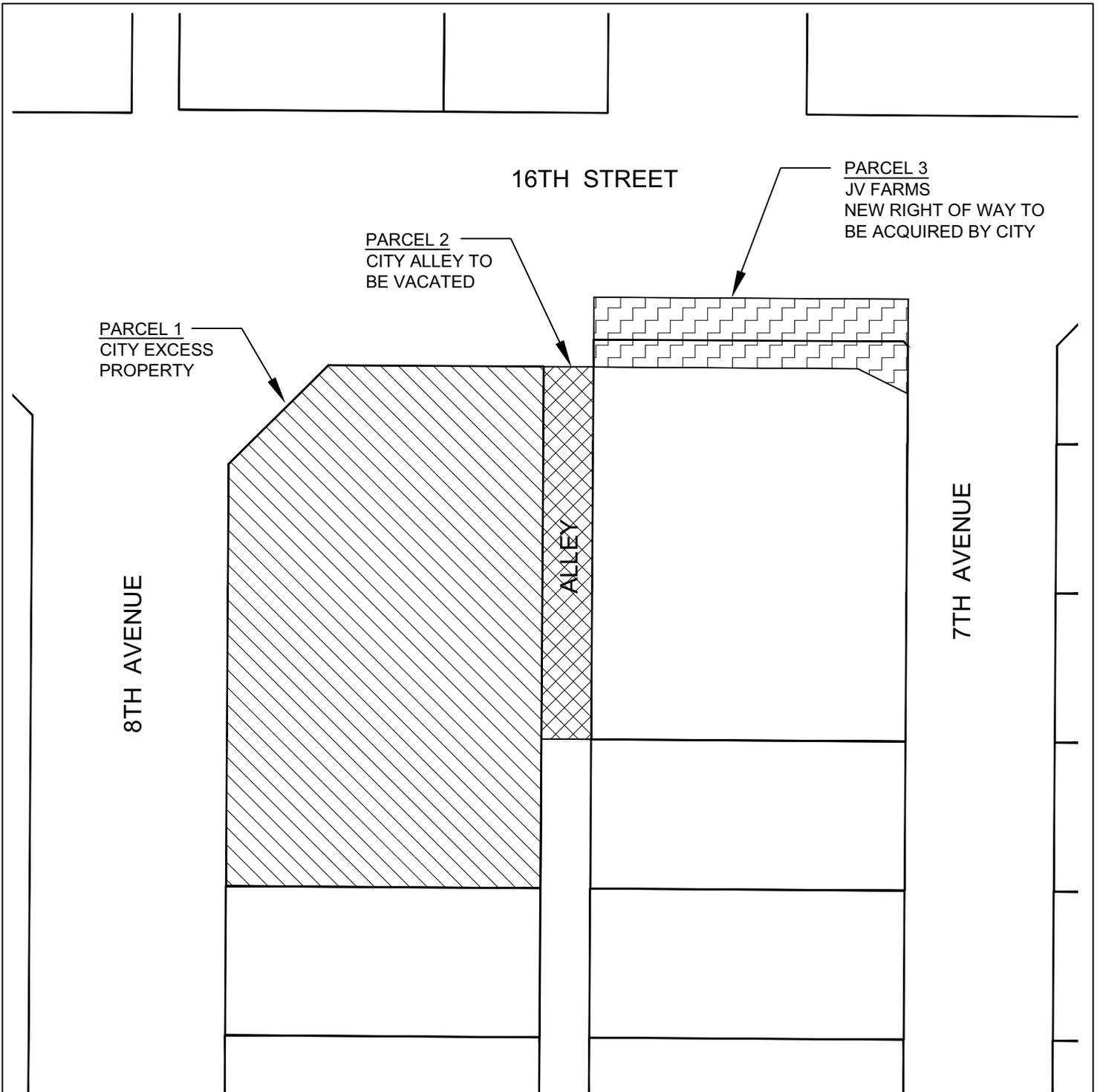
After review of future roadway plans it has been determined that the City requires approximately 1,701 square feet of 16th Street frontage as additional right-of-way at the southwest corner of 16th Street and 7th Avenue. The parcel from which the right-of-way will be acquired is owned by JV Farms, Inc. (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.

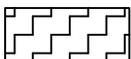
FISCAL REQUIREMENTS	CITY FUNDS: \$1,500.00	BUDGETED: \$0.00
	STATE FUNDS: \$0.00	AVAILABLE TO TRANSFER: \$0.00
	FEDERAL FUNDS: \$0.00	IN CONTINGENCY: \$0.00
	OTHER SOURCES: \$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:
	TOTAL: \$1,500.00	
	FISCAL IMPACT STATEMENT: 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



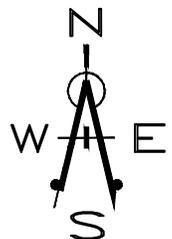
PARCEL 2



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. 8TH 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 16TH STREET RIGHT-OF-WAY, HEREAFTER DESCRIBED AND LOCATED AT 701 W. 16TH 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 16th 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 16th 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 25,792 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: December 3, 2014
DEPARTMENT: City Administration
DIVISION: Right-of-Way

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

TITLE:
 Amendment: Ordinance No. O2013-52 Legal Description

SUMMARY RECOMMENDATION:
 Approve amending the legal description to the YRMC Ring Road Easement previously adopted as Ordinance No. O2013-52.

REPORT:
 In preparation for expansion and improvements by Yuma Regional Medical Center (YRMC) to the 24th Street and Avenue A campus and medical facilities, the City Council previously authorized a grant of easement through Ordinance No. O2013-52 to the Hospital District No. 1, Yuma County, Arizona for the construction of the ring road. The legal description for the ring road requires amendment of the Ordinance to conform with the construction.

A companion Resolution amending the Development Agreement (First Amendment to the Development Agreement) which includes the previously approved Ring Road Easement, is scheduled on the regular City Council agenda for the December 3, 2014 City Council meeting.

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.			
SIGNATURES	CITY ADMINISTRATOR:			DATE:
	Gregory K. Wilkinson			11/25/2014
SIGNATURES	REVIEWED BY CITY ATTORNEY:			DATE:
	Steven W. Moore			11/25/2014
SIGNATURES	RECOMMENDED BY (DEPT/DIV HEAD):			DATE:
	WRITTEN/SUBMITTED BY:			DATE:

ORDINANCE NO. O2014-35

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AMENDMENT OF ORDINANCE NO. O2013-52 TO AMEND THE LEGAL DESCRIPTION OF THE RING ROAD EASEMENT TO CONFORM WITH THE ROADWAY AS CONSTRUCTED

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 City Council previously adopted Ordinance O2013-52 authorizing a grant of easement for the ring road to the Hospital District No. 1, Yuma County, Arizona, on City-owned real property described on the first page of Exhibit B to Ordinance No. O2013-52; and,

WHEREAS, in order to conform Ordinance No. O2013-52 to the ring road as constructed, Ordinance No. O2013-52 requires an amendment of the legal description for the Ring Road Easement.

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

SECTION 1: The legal description for the Ring Road Easement is amended to read as shown in Exhibit B attached and by this reference incorporated into this amending Ordinance.

SECTION 2: The first page of Exhibit B to Ordinance No. O2013-52 is amended to substitute the amended legal description of the Ring Road Easement described in the attached Exhibit B.

SECTION 3: The remainder of Ordinance No. O2013-52 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

EXHIBIT B TO ORDINANCE O2014-35

EXHIBIT D-1

Ring Road Legal Description 6/17/14

That portion of the Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona, also described in DEDICATION OF PARK, PLAYGROUND AND FAIRGROUND IN YUMA COUNTY, ARIZONA, recorded in Docket 104, Pages 355 to 357, Yuma County Records (YCR) and more particularly described as follows:

Beginning at the Northeast corner of the Northeast quarter (NE¼) of said Section 5, also described in RECORD OF SURVEY, dated 2/16/2010, FEE # 2010-03750, recorded in Book 9 of Surveys, Pages 21 & 22, YCR;

Thence South 00°23'10" East (Measured (M)), South 00°23'01" East (Record (R) said Record of Survey), South 00°22'23" East (Record (R1) United States Bureau of Reclamation Balanced Section Map) along the East line of said Section 5 a distance of 1,325.28 feet (M), 1324.97 feet (R), 1324.92 feet (R1) to the Northeast corner of the Southeast quarter of the Northeast quarter (SE¼NE¼) of said Section 5;

Thence North 89°16'56" West (M), North 89°17'27" West (R1) along the North line of said Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5 a distance of 85.01 feet (M) to the **TRUE POINT OF BEGINNING**;

Thence continuing North 89°16'56" West (M), North 89°17'27" West (R1) along the North line of said Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5 a distance of 479.69 feet (M) to a point;

Thence South 72°22'44" East (M) a distance of 14.82 feet (M) to a point;

Thence South 69°33'02" East (M) a distance of 26.34 feet (M) to a point;

Thence South 65°08'51" East (M) a distance of 28.03 feet (M) to a point;

Thence South 66°49'20" East (M) a distance of 27.19 feet (M) to a point;

Thence South 69°43'39" East (M) a distance of 26.80 feet (M) to a point;

Thence South 73°05'45" East (M) a distance of 26.15 feet (M) to a point;

Thence South 77°04'36" East (M) a distance of 26.31 feet (M) to a point;

Thence South 79°42'59" East (M) a distance of 25.10 feet (M) to a point;

Thence South 84°15'09" East (M) a distance of 25.28 feet (M) to a point;

Thence South 88°18'31" East (M) a distance of 24.88 feet (M) to a point;

Thence South 87°23'57" East (M) a distance of 25.13 feet (M) to a point;

Thence South 85°44'43" East (M) a distance of 25.15 feet (M) to a point;

Thence South 85°18'12" East (M) a distance of 25.10 feet (M) to a point;

Thence South 84°19'49" East (M) a distance of 25.34 feet (M) to a point;

Thence South 84°48'18" East (M) a distance of 23.89 feet (M) to a point;

Thence South 85°06'20" East (M) a distance of 26.46 feet (M) to a point;

Thence South 89°21'42" East (M) a distance of 25.03 feet (M) to a point;

Thence North 89°18'32" East (M) a distance of 24.84 feet (M) to a point;

Thence North 87°11'25" East (M) a distance of 24.91 feet (M) to a point;

Thence South 89°16'56" East (M) parallel with and southerly of the North line of said Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 5 a distance of 15.05 feet (M) to a point lying 71.62 feet southerly of the North line and 85.00 feet westerly of the East line of said SE¼NE¼ of Section 5;

Thence North 00°23'10" West (M) parallel with and 85.00 feet westerly of the East line of said Section 5 a distance of 71.62 feet (M) to the **TRUE POINT OF BEGINNING**;

Said parcel contains 26,445 square feet or 0.6071 of an acre, more or less.



Expires 3/31/15



City of YUMA

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: December 3, 2014

DEPARTMENT: Fire

DIVISION: Community Risk Reduction

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

TITLE:
Amend Yuma City Code: NFPA 1 Fire Code 2012 adoption with local amendments

SUMMARY RECOMMENDATION:
Amend Yuma City Code Chapter 131, Sections 131-15 through 131-19 and adopt by reference NFPA 1 Fire Code 2012, commonly known as National Fire Protection Association 1 Fire Code 2012, including Annexes A, B, D, E and G, and local amendments.

REPORT:
The 2003 NFPA 1 Uniform Fire Code is the City of Yuma’s current fire code, adopted on October 15, 2003. Updated editions of the code are published every three years and the City of Yuma has typically followed a six-year cycle for updating the codes. The typical cycle for updating the fire code was postponed due to actions from the Arizona Legislature restricting the adoption of new fire codes by municipalities from 2009 to 2011. To stay current with the code cycle and establish criteria for regulation of commercial buildings and structures, it is necessary to amend the City Code, adopting by reference the 2012 NFPA 1 Fire Code, including Annexes A, B,D, E and G, and local amendments.

In the last three revision cycles of the NFPA 1 Fire Code, there has been much clarification which will be extremely helpful to the safety of both the Yuma community and to firefighters. The 2012 Edition offers updated materials and procedures for public fire safety, and correlates well with the other series of codes adopted and already in place by the City of Yuma. Additionally, the educational training, review materials, and code opinions available from NFPA utilize the most recent version of the NFPA 1 Fire Code.

Between December 2013 and March 2014 (and again in October 2014), the City of Yuma Building Advisory Board reviewed the 2012 Edition in a series of public meetings. A comprehensive overview of the significant changes between the 2003 Edition currently in place and the proposed 2012 Edition was presented by YFD personnel and other City Staff. After reviewing the changes and receiving input from the public, the Building Advisory Board offered input, and changes, to the proposed code which are now reflected in the final version presented to City Council. On March 12, 2014, the Building Advisory Board unanimously voted to approve and accept the 2012 Edition, including Annexes A, B, D, E and G, with proposed local Amendments, and recommended moving forward to the City Council for approval and adoption. On October 29, 2014, the Building Advisory Board unanimously voted to approve one additional amendment to the 2012 Edition. The additional amendment is included in the proposed

Ordinance presented to City Council.

The Fire Suppression Rating Schedule computed by the Insurance Services Office, Inc. for the citizens of Yuma takes into account whether the City of Yuma has adopted and enforces the latest edition of one of the nationally recognized fire prevention codes (such as this one). Adopting and enforcing the most recent fire code affords the fire department the greatest amount of credit in that category.

In summary, the Fire Department staff agrees with the Building Advisory Board's recommendation of adoption of the 2012 NFPA 1 Fire Code, including Annexes A, B, D, E, and G, and local Amendments. This code will become effective on January 16, 2015 after which all plans relying on the Fire Code will be required to use the 2012 Edition.

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			11/25/2014
	REVIEWED BY CITY ATTORNEY:			DATE:
	Steven W. Moore			11/25/2014
	RECOMMENDED BY (DEPT/DIV HEAD):			DATE:
Steve Irr			11/17/2014	
WRITTEN/SUBMITTED BY:			DATE:	
Kayla Holiman/Stephanie Caraway			11/17/2014	

ORDINANCE NO. O2014-36

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING TITLE 13 OF THE YUMA CITY CODE, CHAPTER 131, ADOPTING BY REFERENCE *NFPA 1 FIRE CODE 2012*, INCLUDING ANNEXES A, B, D, E AND G, AND THE AMENDMENTS RECOMMENDED BY THE BUILDING ADVISORY BOARD DATED MARCH 12, 2014 AND OCTOBER 29, 2014, AND PROVIDING A PENALTY FOR VIOLATIONS THEREOF

WHEREAS, on October 15, 2003, the City Council adopted the 2003 Edition of the NFPA 1 (National Fire Protection Association), Uniform Fire Code, with amendments and,

WHEREAS, Yuma City Council Resolution No. R2014-41 declared a document titled, “NFPA 1 Fire Code 2012” a public record; and,

WHEREAS, the City Council has considered the unanimous recommendation of the City of Yuma Building Advisory Board based on their actions taken at their meetings on March 12, 2014 and October 29, 2014 recommending adoption of NFPA 1 Fire Code 2012, with Annexes A, B, D, E and G, and the Amendments herein; and,

WHEREAS, the City of Yuma is desirous of adopting the most recent edition NFPA 1, being NFPA 1 Fire Code 2012, to keep current with the code cycle and amendments to reflect modern technology, materials and techniques; and,

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

SECTION 1: That the Yuma City Code, Section 131-15, be amended to read as follows:

Sec. 131-15 Adoption of a model Fire Code, NFPA 1, Fire Code, 2012 Edition.

That certain document, three (3) copies of which are on file in the office of the City Clerk, known as NFPA 1, Fire Code, 2012 Edition, including Annexes “A”, “B”, “D”, “E”, and “G” published by the National Fire Protection Association, with certain amendments listed herein, which document was made a public record by Resolution No. R2014-41 of the City, is hereby adopted by reference and made a part hereof as if fully set out in this article.

SECTION 2: That the Yuma City Code, Section 131-16, be amended to read as follows:

This edition of NFPA 1, the Fire Code, adopted by the provision of this chapter is hereby amended, altered, and changed in the following respects:

NOTE: The section numbers that follow are the reference sections found in NFPA-1.

1.1.2 Title. Is hereby amended as follows:

These regulations shall be known as the 2012 Fire Code with Yuma Amendments, hereinafter referred to as “this code.”

1.3.1 Application. Is hereby amended by the addition of the following sentence:

All construction and/or alterations of a structure, which require a building permit, shall comply with the current building code adopted by the City of Yuma.

1.3.3.1 Conflicts. Is hereby amended by the addition of the following sentence:

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

1.3.3.2 Conflicts. Is hereby amended by the addition of the following sentence:

Where, in a specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

1.3.6.3 Buildings. Is hereby amended as follows:

Repairs, renovations, alterations, reconstruction, change of occupancy, and additions to buildings shall conform with the adopted building code of the jurisdiction except for repairs, renovation, alteration and reconstruction of fire sprinkler and fire alarms. Those activities shall be regulated by the fire code adopted by this ordinance.

1.7.11 Plans and Specifications. Is hereby amended by the addition of the following sentence:

All plans, specifications, calculations, and design criteria shall be stamped by a registrant licensed to practice in the state of Arizona. Calculation sheets for fire sprinkler systems shall be made a permanent part of the submitted design drawings.

1.10.1 Fire Code Board of Appeals. Is hereby amended by striking the entire paragraph and replacing it with the following:

Whenever reference is made to the “Board of Appeals” in the City Fire Code, it shall mean the City of Yuma “Building Advisory Board.”

1.10.1.1.5 Members. Is hereby amended by striking the entire paragraph.

1.10.1.1.5.3 Members. Is hereby amended by striking the entire sentence.

1.10.3 Authority of the Board of Appeals. Is hereby amended by striking sections 1.10.3.3 and 1.10.6.2.

1.12 Permits and Approvals. The following shall be added to this section:

1.12.2.5 Fees and Charges.

All “activity” permits required by the fire code shall be subject to the table of fees. A fee in accordance with the following schedule shall be paid to the City of Yuma at the time of application for: (1) an installation or removal; (2) an activity permit; (3) other service or special inspection.

Failure to apply for necessary permits or service can result in a double charge for such. Fees are payable upon permit application.

Table 1.12.2.5 Activity Permit Fee Schedule:

Carnivals and Fairs	\$75.00
Cutting and Welding Operations	\$75.00
Display Fireworks	\$100.00
Exhibit and Trade Shows	\$75.00
Explosives and Blasting	\$100.00
Fuel Tank Installation or Removal	\$100.00
Liquefied Petroleum Gas Installation	\$100.00
Installation less than 500 gallons:	\$75.00
Membrane Structures, Tents, and Canopies: Permanent or Temporary	\$75.00
Open Burning	\$100.00
Pyrotechnics before a Proximate Audience	\$100.00
Torch Applied Roofing Operations	\$75.00
Fire Inspections Mandated by the State for Licensing	\$50.00
Fire Sprinkler Alterations	\$50.00 over the counter permit plus \$50.00 an hour inspection fee.
Fire Alarm Alterations	\$50.00 over the counter permit plus \$50.00 an hour inspection fee.
Sale or Storage of Consumer Fireworks (1.4G)	\$10.00
Tire Storage (in excess of 500 tires)	\$100.00

1.12.2.6 Standard Hourly Fee. This is a special fee should there be a need for special service and re-inspections. This standard hourly fee is not a fee in addition to permits fees listed above.

a. After normal working hours: There shall be a standard hourly fee of fifty dollars (\$50.00), with a two-hour minimum, charged for all special, after-hours service, inspections and plan review work. This is provided to accommodate the developer who may need a higher level of service and is willing to pay an additional fee for that service.

b. Special services: In addition, the standard hourly fee is established for special requests for service such as the following: a review for the use of alternate methods, consultation, fire watch and stand-by service, and hydrant flow testing.

c. Re-inspections: Another application for the standard hourly fee is for the commercial fire inspection program. There will be no charge for the initial annual commercial fire inspection and one follow-up; however, should the business require more than one follow-up re-inspection that business shall be charged at the standard hourly fee with a one-hour minimum charge for each additional re-inspection.

Chapter 2 Reference Publications

2.2 NFPA Publications

The reference to the 2012 Edition of the *NFPA 5000, Building Construction and Safety Code* shall be changed to name the current building code adopted by the City of Yuma.

Chapter 3 Definitions

3.3.165.1 Combustible Liquid. Is hereby amended by addition of the following paragraph:

Note: Storage and use of combustible liquids with a flash point under 141 degrees F in outdoor areas and areas without climatic controls will be treated as Class I-C flammable liquids throughout the code.

Chapter 4 General Requirements

4.5.7 Changes of Occupancy. In order to determine when a change of occupancy will initiate a fire sprinkler retrofit, the following will be added to sub-section (1):

(1) For the purpose of determining if a change of occupancy will be a more hazardous operation requiring the retrofit of a fire sprinkler system, the “Means of Egress Hazard Categories Table” (for life safety) in the edition of the International Existing Building Code currently adopted by the City of Yuma will be referenced. See section 10.3.4.

Chapter 10 General Fire Safety

10.1.3 Building Code. Is hereby amended by the addition of the following sentence:

The design and construction of new structures shall comply with the current building code adopted by the City of Yuma, and any alterations, additions, changes in use or changes in structures required by this code, which are within the scope of the current building code adopted by the City of Yuma, shall be made in accordance therewith.

10.3.4 Change of Use or Occupancy Classification. Is hereby amended by the addition of the following sentence:

No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the current building code adopted by the City of Yuma. Subject to the approval of the fire code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for the purposes in other groups without conforming to all the requirements of this code and the current building code adopted by the City of Yuma for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

10.12.1 Premises Identification. Is hereby amended by addition of the following sentence:

NFPA 704, figure 9.1(c) shall be used to determine the size of address lettering and numbering.

10.13.1 Seasonal and Vacant Building and Premises. Is hereby amended by addition of the following subsection:

10.13.1.2 The Authority Having Jurisdiction to placard, post signs, erect barriers or take similar measures as necessary to secure public safety on any vacant, abandoned, or unoccupied building, structure, premises or portions thereof.

Chapter 11 Building Services

11.3.6.1 Requirements for Standardized Fire Service Keys. Is hereby amended by addition of the following exception:

Exception: The owner shall be permitted to place the building's non-standardized fire service elevator keys in a key box installed in accordance with section 11.3.6.5.1.1-7.

11.12.1 Photovoltaic Systems. Is hereby amended by addition of the following reference:

New photovoltaic systems shall be installed in accordance with section 11.10, section 11.12, NFPA 70, and the current building code adopted by the City of Yuma.

Chapter 12 Features of Fire Protection

12.5 Interior Finish. Is hereby amended by addition of the following reference:

Interior finish in buildings and structures shall meet the requirements of *NFPA 101*, this code, and the current building code adopted by the City of Yuma.

Chapter 13 Fire Protection Systems

13.1.4.1 Fire Department Connection. Is hereby amended by the addition of the following sentence:

The Fire Department Connection shall be remotely located from the building in a location approved by the AHJ.

13.3 Automatic Sprinklers

13.3.2.1 to 13.3.2.29 Where Required. Is hereby amended to read as follows:

- A. An automatic sprinkler system shall be installed throughout all levels of all buildings here after constructed, except for Group U and R-3 occupancies.
 - a. Exception 1: Buildings housing a group A-1, A-2, A-3, A-4, A-5, B, E, F-2, M, or S-2 occupancy having square footage less than five hundred (500) square feet.
 - i. Note: For the purposes of this article, fire resistive fire walls will not be considered a barrier creating a separate building.
 - b. Exception 2: Temporary use of modular or factory built structures shall not be required to provide an automatic fire sprinkler system,

provided that the use of the structure and the “Certificate of Occupancy” is limited to one year from the time of set up to removal.

- c. Exception 3: Free standing open canopy structure. When automatic fire sprinklers are not required by the current building code adopted by the City of Yuma, and when the structure meets each of the following criteria, fire sprinklers will not be required:
 - i. The structure shall not exceed 10,000 square feet.
 - ii. The entire covered area is open on all sides void of interior walls or partitions.
 - iii. Setbacks from property lines or other structures are in accordance with the current building code adopted by the City of Yuma.
 - iv. The building use is not classified as hazardous, assembly or mercantile occupancy.
 - v. Portable fire extinguishers are installed in accordance with NFPA 10.
 - vi. Open flames and devices emitting flames or creating a glow capable of igniting combustible materials shall not be used in or adjacent to the structure.
 - vii. Flammable or combustible materials and LP-Gas shall not be stored in or adjacent to the structure, except for automobile fueling islands.
 - viii. An approved water supply capable of supplying the required fire flow shall be provided.

Note: Any changes to the free standing open canopy structure or its use may result in the loss of this exception and may require a retrofit of an automatic fire sprinkler system.

- B. Retrofit of fire sprinklers to existing structures. An existing building that undergoes a “change of occupancy” as outlined in section 4.5.7, whereby the new occupancy is deemed a greater hazard than the previous occupancy, the building will be treated as a new building and may require the installation of fire sprinklers. The “Means of Egress Hazard Categories Table” (for life safety) in the edition of the International Existing Building Code currently adopted by the City of Yuma shall be referenced to determine occupancy hazard level.
- C. Any building except Group U and R-3 occupancies, which undergoes a renovation in excess of 50% of value as assessed by the building code, shall meet the requirements of this section.
- D. Any building that increases in size by a total summation of 50% as a result of one or more expansions will require a retrofit of an automatic fire sprinkler. For the purposes of this code, the current size of the building at the time of this code adoption will constitute the starting point.

13.3.2.20.1 One and Two-Family Dwellings. Is hereby amended by deletion.

Chapter 16 Safeguarding During Construction, Alteration, and Demolition Operations.

16.1.1 General Requirements. Is hereby amended by addition of the following reference:

Structures undergoing construction, alteration, or demolition operations, including those in underground locations, shall comply with NFPA 241, *Standard for Safeguarding Construction, Alteration, and Demolition Operations*, this chapter, and the current building code adopted by the City of Yuma.

Chapter 66 Flammable and Combustible Liquids

66.21.3 General Requirements. Is hereby amended by the addition of the following paragraph:

Any permanent tank installation over 500 gallons will require that the foundation and anchorage be engineered by a design professional registered in the State of Arizona.

Chapter 69 Liquefied Petroleum Gases and Liquefied Natural Gasses

69.1 General Provisions. Is hereby amended by the addition of the following paragraph:

Any permanent tank installation over 500 gallons will require that the foundation and anchorage be engineered by a design professional registered in the State of Arizona.

69.4.2 Operational Safety. Is hereby amended by the addition of the following paragraph:

Dispensing, filling, and evacuating of LP gases shall be performed by a qualified person. In service training for qualified persons shall be conducted annually and current records of such training shall be maintained on site.

SECTION 3: That the Yuma City Code, Section 131-17, by amended to read as follows:

Section 131-17. Areas Where Certain Materials are Prohibited:

(A) *Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.* For volumes exceeding the maximum allowable quantities (as outlined in the Fire Code) the location in which storage of explosives and blasting agents is prohibited, are hereby established as follows:

(1) In all areas within the corporate limits of the city, other than those defined and designated as “light industrial” or “heavy industrial” districts by the zoning ordinance of the city, such storage is prohibited.

(2) Upon presentation of plans conforming to design criteria as established in the Fire Code and its referenced standards, the Authority Having Jurisdiction, as defined by the Fire Code, may approve the location of such storage, in areas where such storage is not prohibited by subdivision (1) above.

(B) *Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited.* The limits, referred to in the Fire Code and its referenced standards, establishing districts in which the aboveground storage of flammable or combustible liquids is restricted are hereby established as follows:

(1) In all areas within the corporate limits of the city other than those defined and designated as “light industrial” or “heavy industrial” districts by the zoning ordinance of this city, the storage of flammable or combustible liquids in aboveground tanks is prohibited.

(2) Exception 1: Vaulted tanks up to 1,000 gallons which provide two-hour fire protection may be used in prohibited areas.

(3) Exception 2: Aboveground tanks up to 500 gallons in capacity may be used in commercial districts when tanks meet all setbacks, containment, and are screened from view. Screening shall meet standards set forth in the zoning ordinance.

SECTION 4: That the Yuma City Code, Section 131-18, be amended to read as follows:

Section 131-18. Establishment and Duties of the Division of Community Risk Reduction:

(A) The City of Yuma Fire Code shall be enforced by the Community Risk Reduction Division in the fire department of the City of Yuma, which is hereby established and which shall be operated under the supervision of the chief of the fire department.

(B) The fire marshal in charge of the Community Risk Reduction Division shall be appointed by the chief of the fire department on the basis of examination to determine qualifications.

SECTION 5: That the Yuma City Code, Section 131-19, be amended to read as follows:

Section 131-19. Appeals:

Whenever the Chief of the Fire Department shall disapprove an application or refuses to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Chief of the Fire Department to the Building Advisory Board, as established and referred to in the current adopted fire code for the City of Yuma, within 30 days from the date of the decision.

SECTION 6:

Should any section, paragraph, sentence, or word of this chapter, or of the code or standards hereby adopted, be declared for any reason to be invalid, it is the intent of the city that the remainder is severable, and that the city would have passed all other portions of this article independent of the elimination of any such portion as may be declared invalid.

SECTION 7:

Any person, firm, corporation, or entity violating any of the provisions or requirements of §§ 131-15 through 131-22 of this chapter shall be guilty of a class 1 misdemeanor and shall be punished as provided in § 10-99 of this code by a fine not to exceed \$1,000 or by imprisonment for not more than ten days or by both such fine and imprisonment. Each separate day or part thereof during which any violation of said sections occurs or continues shall be deemed to constitute a separate offense.

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:

December 3, 2014

DEPARTMENT:

City Attorney

DIVISION:

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

TITLE:

Yuma City Code Amendment: Title 15, Chapter 157, Section of City Code 157-01 (Definitions)

SUMMARY RECOMMENDATION:

Amend the Yuma City Code, Title 15, Chapter 15, Section 157-001 to add a definition of "biennial certified audit" and correct the title to Ordinance No. 2012-10 adopted May 2, 2012.

REPORT:

The City Council adopted Citywide Development Fees by Ordinance No. O2005-74 on September 7, 2005, subsequently amended by Ordinance No. O2010-14 on March 3, 2010 and Ordinance 2012-10 on May 2, 2012.

Arizona Revised Statutes ("A.R.S.") § 9-463.05(G) requires a municipality to appoint an infrastructure improvements advisory committee, or have a qualified professional or professionals provide a biennial certified audit of the municipality's land use assumptions, infrastructure improvements plan and development fees. The City of Yuma (City) has chosen to perform an audit, rather than appointing an advisory committee. Section 9-463.05(G), however, does not explicitly or implicitly define "certified." This proposed amendment to the Yuma City Code will distinguish the biennial certified audit pursuant to A.R.S. § 9-463.05 from the statutory audit required by A.R.S. § 9-481 of all cities and towns by a certified public accountant or a licensed public accountant. Defining biennial certified audit will also permit any qualified professional or professionals to perform the biennial certified audit.

The proposed Ordinance will also correct a scrivener's error in the title of Ordinance No. 2012-10, changing the title to read "Ordinance No. O2012-10."

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
		\$0.00		
		\$0.00		
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:			
	<ol style="list-style-type: none"> 1. 2. 3. 4. 5. 			
IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?				
<input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office				

SIGNATURES	CITY ADMINISTRATOR:	DATE:
	Gregory K. Wilkinson	11/25/2014
	REVIEWED BY CITY ATTORNEY:	DATE:
	Steven W. Moore	11/25/2014
RECOMMENDED BY (DEPT/DIV HEAD):		DATE:
WRITTEN/SUBMITTED BY:		DATE:
Daniel R. White		11/14/2014

ORDINANCE NO. O2014-38

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING CHAPTER 157 OF THE YUMA CITY CODE, AS AMENDED, CORRECTING THE TITLE OF ORDINANCE NO. 2012-10 AND ADDING THE DEFINITION OF “BIENNIAL CERTIFIED AUDIT” TO THE CITY OF YUMA DEVELOPMENT FEE ORDINANCE

WHEREAS, pursuant to Arizona Revised Statutes (“A.R.S.”) § 9-463.05, the City Council adopted the City of Yuma Development Fee Ordinance (O2005-74) on September 7, 2005 (amended by Ordinance No. O2010-14 on March 3, 2010 and Ordinance No. 2012-10 on May 2, 2012), and

WHEREAS, the intent of the City of Yuma Development Fee Ordinance is:

1. To establish uniform procedures for the imposition, calculation, collection, expenditure and administration of development fees imposed on new development;
2. To assure that new development contributes its proportionate share towards the costs of public facilities reasonably necessitated by such new development;
3. To ensure that new development receives a beneficial use from the expenditure of development fees on necessary public services and facilities;
4. To ensure that all applicable legal standards and criteria are incorporated into these procedures; and
5. To ensure that all applicable procedures and requirements of A.R.S. § 9-463.05, as amended, have been met; and,

WHEREAS, A.R.S. § 9-463.05(G) requires a municipality to appoint an infrastructure improvements advisory committee, or have a qualified professional provide a biennial certified audit of the municipality's land use assumptions, infrastructure improvements plan and development fees; and,

WHEREAS, A.R.S. § 9-463.05 does not clearly define the term “biennial certified audit”; and,

WHEREAS, an amendment to the Yuma City Code, Title 15, Chapter 157, adopted on May 2, 2012, contained a scrivener’s error and cited the amendment as “Ordinance No. 2012-10” instead of “Ordinance No. O2012-10”; and,

WHEREAS, the scrivener’s error should be corrected to reflect the accurate citation.

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

SECTION 1: That City of Yuma Development Fees Ordinance, Yuma City Code, Title 15, Chapter 157, Section 001(B), shall be amended to add the following underlined text inserted alphabetically in the definitions section:

BIENNIAL CERTIFIED AUDIT. An audit, conducted by one or more qualified professionals who are not employees or officials of the City of Yuma and who did not prepare the infrastructure improvements plan, that reviews the City of Yuma's

(1) land use assumptions, including determining whether the land use assumptions conform with the City of Yuma's general plan;

(2) the progress of the infrastructure improvements plan, including the collection and expenditures of development fees for each project in the plan;

(3) development fees, including evaluating any inequities in implementing the infrastructure improvements plan or imposing the development fee.

Biennial certified audit shall not mean an audit conducted pursuant to Arizona Revised Statutes § 9-481 or require certification by a certified or licensed public accountant.

SECTION 2: The amendment titled "Ordinance No. 2012-10," adopted on May 2, 2012, shall be corrected to read "Ordinance No. O2012-10."

SECTION 3: That the remainder of the City of Yuma Development Fees Ordinance shall remain in full force and effect and unchanged.

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