

2018-27126 RESOLUTION
10/30/2018 04:49:39 PM Pages: 15 Fees: \$13.00
Requested By: CITY OF YUMA CLERKS OFFICE
Recorded By: nvasquez
Robyn Stallworth Piquette County Recorder, YUMA County AZ

WHEN RECORDED MAIL TO:

**CITY OF SAN LUIS
P.O. BOX 1170
SAN LUIS, ARIZONA
ATTN: CITY CLERK**



The above area is to be reserved for recording information

CAPTION HEADING:

Resolution No. 2058
Las Quintas De San Luis 3 Development Agreement



Resolution

NO. 2058

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING LAS QUINTAS DE SAN LUIS 3 DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND RIEDEL HOLDINGS, L.L.C.

WHEREAS, Nieves Riedel, Riedel Holdings, L.L.C.; Owner, desires to enter into a development agreement for Las Quintas de San Luis 3 project to be located in San Luis, Arizona; and

WHEREAS, Edais Engineering, Inc. is agent for the Owner; and

WHEREAS, A.R.S. § 9-500.05 grants power to a municipality to enter into development agreements; and

WHEREAS, the parties desire to enter into such agreement; and

WHEREAS, the applicant and the city staff agreed to all matters in the City's proposed development agreement; and

WHEREAS, A.R.S. § 9-462.01 grants power to a municipality to impose conditions upon a change of zoning;

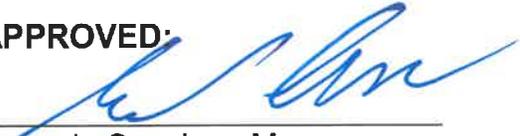
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of San Luis, State of Arizona, as follows:

SECTION 1. That the development agreement proposed by the staff of the City of San Luis, Arizona attached hereto as Exhibit "A", is hereby approved contingent upon rezoning to R1-12 passing;

SECTION 2. That the development agreement proposed by city staff is a condition upon rezoning to R1-12 if the rezoning passes.

PASSED AND ADOPTED by the Mayor and City Council of the City of San Luis, Arizona, this 10th day of October, 2018.

APPROVED:



Gerardo Sanchez, Mayor

ATTEST:

APPROVED AS TO FORM:



Kay Marion Macuil, City Attorney

For  Deputy City Clerk

Sonia Cornelio, City Clerk

LAS QUINTAS DE SAN LUIS 3 DEVELOPMENT AGREEMENT

Rezoning Case Number 2018-0321

THIS DEVELOPMENT AGREEMENT (the “**Agreement**”) is entered into as of 10th day of October, 2018 (“**Effective Date**”) by and between the City of San Luis an Arizona municipal corporation (the “**City**”) and Nieves Riedel, Riedel Holdings, L.L.C., (the “**Owner**”). This Agreement is entered into pursuant to City Resolution Number 2058-Las Quintas de San Luis 3.

RECITALS

A. WHEREAS, A.R.S. § 9-500.05 authorizes the City to enter into development agreements with landowners and persons having an interest in real property that is located in the City; and

B. WHEREAS, Nieves Riedel, Riedel Holdings, L.L.C.; Owner, owns approximately 10.52 acres located in the municipal limits of the City (the “**Property**”) real property located north of County 22 Street and east the East Main Canal is more specifically described herein; and

C. WHEREAS, Edais Engineering, Inc. is agent for the Owner; and

D. WHEREAS, the Owner has requested rezoning of the Property from Medium Density Residential (R1-6) to Medium Density Residential (R1-12); and

E. WHEREAS, this Agreement is consistent with the portions of the City’s General Plan applicable to the Property on the date this Agreement is executed; and

F. WHEREAS, this is a preliminary agreement solely to approve the Conceptual Plan and to outline some of the provisions to be included in plats and site plans submitted by the Owner in connection with the Development of the Property; and

G. WHEREAS, following additional revisions to the Conceptual Plan and submission to the City for review and approval, this Agreement shall be replaced by an Amended and Restated Development Agreement (“**Amended Agreement**”); and

H. WHEREAS, the City’s governing body has authorized execution of this Agreement by Resolution No. 2058, a draft of which is attached to this Agreement.

NOW, THEREFORE, the parties agree as follows:

1.4. Improvements shall mean and refer to all public and private improvements which may be constructed from time to time on the Property, including, without limitation, all structures, buildings, roads, driveways, parking areas, walls, landscaping and other improvements of any type or kind, or any other alteration of the natural terrain to be built by the Owner or the City, as the case may be, pursuant to the terms of the Amended Agreement.

1.5. Property as used in this Agreement shall mean and refer to all of the real property which is legally described in Exhibit A.

ARTICLE 2. DEVELOPMENT PLAN

2.1. Duration of Development Agreement. The term of this Agreement shall be for a period of ten (10) years from date of execution.

2.2. Failure of Timely Performance. In the event that either party hereto fails to perform any of its obligations which are set forth in or contemplated by this Agreement in a timely manner, and should such failure not otherwise be excused by agreement of the parties or by the terms of this Agreement, such failure shall be considered to be a breach of this Agreement and the nonbreaching party shall have their respective remedies set forth in Section 6.3 of this Agreement.

2.3. Approval and Processing of Plans. The City hereby acknowledges and agrees that development of the Property may occur over a span of a number of years and will require the City's ongoing participation in the review and approval of modifications and amendments to any site plans, infrastructure plans, drainage plans, design plans, building plans, grading permits, building permits, archaeological and historic preservation review and disposition, and other plans, permit applications and inspections which are a part of the City's building and development requirements (hereinafter collectively called "**Approval Requests**"). City approves the Conceptual Plan attached hereto as Exhibit B for the development of the Property and agrees that said Plan can be built by Owner by complying with this Development Agreement and in accordance with City's rules regulations and ordinances, as amended from time to time, and that it is consistent with the General Plan of the City. Owner will be entitled to build the heights, densities, and intensity of uses as shown on Exhibit B, provided that Owner complies with all development and zoning processes, as amended from time to time. City agrees that in connection with all approvals required by the development and zoning processes relating to the development of the Property, no extraordinary plan or review requirements will be imposed on the Owner.

2.4. Review Process. The City acknowledges the necessity for expeditious review by the City of all plans and other materials ("**Submitted Materials**") submitted by the Owner to the City hereunder or pursuant to any zoning procedure, permit procedure, or other governmental procedure pertaining to the development of the Property and agrees to use its reasonable efforts accomplish such an expeditious review of the Submitted Materials whenever possible.

ARTICLE 3. SPECIAL PROVISIONS FOR INFRASTRUCTURE

3.1 A traffic study must be conducted. Owner agrees to pay said traffic study and provide any infrastructure needed according to the findings of the study.

3.2 Owner agrees to provide off-site drainage. Water retention/detention areas may be counted towards the 5% Open Space required by the Zoning Regulations (Chapter 152 Table No. 2). The required 5% for Las Quintas 3 Subdivision is 0.526 acres.

3.3 Owner agrees to provide a 10" water line and fire hydrants at least every 240 feet. And provide 54-foot right-of-way for Quintero Avenue as shown in attachment A.

3.4 Owner agrees to provide curb, gutter and sidewalk on the north side of County 22nd Street between Las Quintas De San Luis 3 subdivision and 10th Avenue.

3.5 Grading and erosion control shall comply with the 2003 International Building Code Appendix J standards for all aspects of the development including development of lots and the building of houses or other buildings.

3.6 Owner agrees to sign necessary improvement districts for the subdivisions of the rezoned parcel. Said districts to include a street lighting improvement district, a community facilities district, and a parkway district pursuant to ARS §48-572.

3.7 Owner agrees to assure ownership of necessary right-of-way for improvements.

3.8 Owner agrees to submit complete full-set of plans at the time of the preliminary plat application. Said plans to include plans for landscaping to comply with §152.298 of the Zoning Regulations. In the alternative for the provision of landscaping, Owner agrees to submit an engineer's cost estimate for compliance with landscaping to the satisfaction of the Public Works Director, and to pay to the City an amount equal to said estimate. Said monies to be used by City to provide future landscaping to city rights of way or other public property in or near the Property.

3.9 The term of this agreement are in addition to City codes, rules, fees and regulations that are applicable to this action.

ARTICLE 4. INDEMNIFICATION

4.1. Owner agrees to defend, indemnify and hold harmless City, its officers, officials and employees ("**Indemnified Group**") for liability from and against claims, damages, losses and expenses of any nature whatsoever (including but not limited to reasonable attorney fees, court costs, the costs of appellate proceedings, and all claim adjusting and handling expense), relating to, arising out of, resulting from or alleged to have resulted from the Owner's acts, errors, mistakes or omissions relating to any action or inaction of the Owner under this Agreement, including but not limited to work or services in the performance of this Agreement by any subcontractor or anyone directly or indirectly employed by or contracting with the Owner or a subcontractor or anyone for whose acts any of them may be liable.

4.2. If any claim, action or proceeding is brought against the Indemnified Group, by reason of any event that is the subject of this Agreement, Owner (at its sole cost and expense) shall pay, resist or defend such claim or action on behalf of the Indemnified Group by the attorney of the Owner, or if covered by insurance, Owner's insurer, all of which must be approved by City, which approval shall not be unreasonably withheld or delayed. The City shall cooperate with all reasonable efforts in the handling and defense of such claim. Notwithstanding the foregoing, the City may engage its own attorney to defend or assist in its defense, and the Owner shall pay the reasonable costs and expenses thereof.

4.3. Any settlement of claims must fully release and discharge the Indemnified Group from any liability for such claims. The release and discharge shall be in writing and shall be subject to approval by the City, which approval shall not be unreasonably withheld or delayed. If Owner neglects or refuses to defend any of the Indemnified Group as required by this Agreement, any recovery or judgment against the Indemnified Group for a claim covered by this Agreement shall conclusively establish Owner's liability to the Indemnified Group in connection with such recovery or judgment. If the City desires to settle such dispute, the City shall be entitled to settle such dispute in good faith and Owner shall be liable for the amount of such settlement, and all expenses in connection with such settlement. .

4.4. The indemnity provisions of this Agreement shall survive the termination of this Agreement.

ARTICLE 5. SUBAGREEMENTS

5.1. Subordinate Development Agreements. The City and Owner hereby acknowledge that the development of the Property may be accomplished by Owner through a series of sales, leases, joint ventures and/or other agreements and arrangements with experienced developers, investors and/or owners of real property. In connection therewith, it is anticipated and contemplated by the parties that such developers, investors or owners may desire to negotiate and enter into separate and subordinate development agreements with the City and/or Owner with respect to infrastructure Improvements, uses, plan approvals and other similar matters which may be the subject of separate agreements between such developers, investors and owners and the City and/or Owner, all to be set forth in the Amended Agreement. The parties hereby agree that any and all development agreements entered into with any such developer, investor or owner of any parcels of the Property shall be subordinate in all respects to the terms and conditions of this Agreement and the Amended Agreement, and, in the event of any conflict or discrepancy between the provisions of any such development agreement and the terms and conditions of this Agreement or the Amended the Agreement, this Agreement or the Amended Agreement (as the case may be) shall govern and control.

ARTICLE 6. MEDIATION AND DEFAULT

6.1. Representatives. To further the cooperation of the parties in implementing this Agreement, the City and Owner each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Owner. The initial representative for the City (the "**City Representative**") shall be the City Manager and the initial representative for the Owner shall be its project manager, as identified by the Owner from time to time (the "**Developer Representative**"). The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Property.

6.2. Mediation. In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the parties agree to attempt to settle the dispute by nonbinding mediation before commencement of litigation. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, either party may request the presiding judge of the

Superior Court of Yuma County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.

6.3. Default. Failure or unreasonable delay by any party to perform any term or provision of this Agreement for a period of ten (10) days after written notice thereof from another party shall constitute a default under this Agreement. If the default is of a nature which is not capable of being cured within ten (10) days, the cure shall be commenced within such period, and diligently pursued to completion. The notice shall specify the nature of the alleged default and the manner in which the default may be satisfactorily cured. In the event of a default hereunder by any party, the non-defaulting party shall be entitled to all remedies at both law and in equity, including, without limitation, specific performance and the right to perform the obligation(s) of which the defaulting party is in default and to immediately seek reimbursement from the defaulting party of all sums expended in order to cure such default, together with interest on all such sums from the date said sums are expended by the non-defaulting party for the purpose of curing the default to the date such sums are paid in full.

ARTICLE 7. CONFLICT OF INTEREST; REPRESENTATIVES NOT INDIVIDUALLY LIABLE

7.1. Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

7.2. No Personal Liability. No member, official or employee of the City shall be personally liable to Owner, or any successor or assignee, (a) in the event of any default or breach by the City, (b) for any amount which may become due to the Owner or its successor or assign, or (c) pursuant to any obligation of the City under the terms of this Agreement.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1. Notices. All notices and communications provided for herein, or given in connection herewith, shall be validly made if in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid to:

If to the City: City Manager
 City of San Luis
 P.O. Box 1170
 1090 E. Union Street
 San Luis, Arizona 85349

If to the Owner: Nieves Riedel, Riedel Holdings, L.L.C.
 1694 N. 9th Avenue
 San Luis, Arizona 85349

or to such other addresses as either party may from time to time designate in writing and deliver in a like manner. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective. Notices given by mail shall be deemed

delivered 72 hours following deposit in the United States Postal Service in the manner set forth above.

8.2.Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

8.3.Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

8.4.Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. The Owner represents and warrants that it is duly formed and validly existing under the laws of the State of Arizona and that it is duly qualified to do business in the State of Arizona and is in good standing under applicable state laws. The Owner and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf each individual is signing. The Owner represents to the City that by entering into this Agreement, the Owner has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

8.5.Entire Agreement. This Agreement, including the following exhibits, constitutes the entire agreement between the parties. This provision applies only to the entirety of Agreement Number 1 only; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this provision has no effect on them.

Exhibit A Legal Description of Property

Exhibit B Conceptual Plan

8.6.Amendment of the Agreement. This Agreement may be amended, in whole or in part and with respect to all or any portion of the Property, only with the mutual written consent of the parties to this Agreement or by their successors in interest or assigns. The City shall record the amendment or cancellation in the official records of the Yuma County Recorder.

8.7.Severability. If any other provision of the Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.

8.8.Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. The parties agree that venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Yuma County, Arizona, and the parties hereby waive any right to object to such venue.

8.9.Recordation of Agreement and Subsequent Amendment; Cancellation. This Agreement, and any amendment or cancellation of it shall be recorded in the official records of

the Yuma County Recorder no later than ten (10) days after the City and the Owner execute such agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

8.10. Attorneys' Fees and Costs. If either party brings a legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and court costs.

8.11. Notice of Conveyance or Assignment. The Owner shall give notice to the City of any sale of the entire Property at least ten (10) days prior to the effective date of the sale.

8.12. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.

8.13. No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the parties.

8.14. Non-Liability of City Officials and Employees. Except for mandamus and other special actions, no member, official or employee of the City shall be personally liable to Owner, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Owner or successor, or under any obligation under the terms of this Agreement. IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF SAN LUIS,
an Arizona municipal corporation

THE OWNER,

By: _____

Mayor

By: _____

Its: _____

ATTEST:

By: Umthompson, Deputy City Clerk
for City Clerk

APPROVED AS TO FORM:

Kay Marion Macaul
City Attorney

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this 10th day of October, 2018, by Gerardo Sanchez, Mayor of the City of San Luis, Arizona, a municipal corporation.



Angelica Cifuentes
Notary Public

My Commission Expires: 05-11-2019

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this 17th day of October, 2018, by Nirves G. Riedel, on behalf of Riedel Holdings, an _____.

Notary Public

A large, stylized handwritten signature in blue ink is written over the horizontal line.

My Commission Expires: March 15, 2019

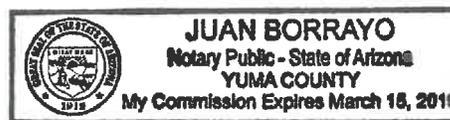


Exhibit A

Legal Description of Property

Development Agreement Las Quintas de San Luis 3

Exhibit A

Assessor Parcel ID no. 211-31-012

LEGAL DESCRIPTION:

PARCEL B OF THE BORDER RANCHES LOT SPLIT NO. 2 AS RECORDED IN
BOOK 27 OF PLATS, PAGE 66, RECORDS OF YUMA COUNTY, ARIZONA

Exhibit B

Conceptual Plan

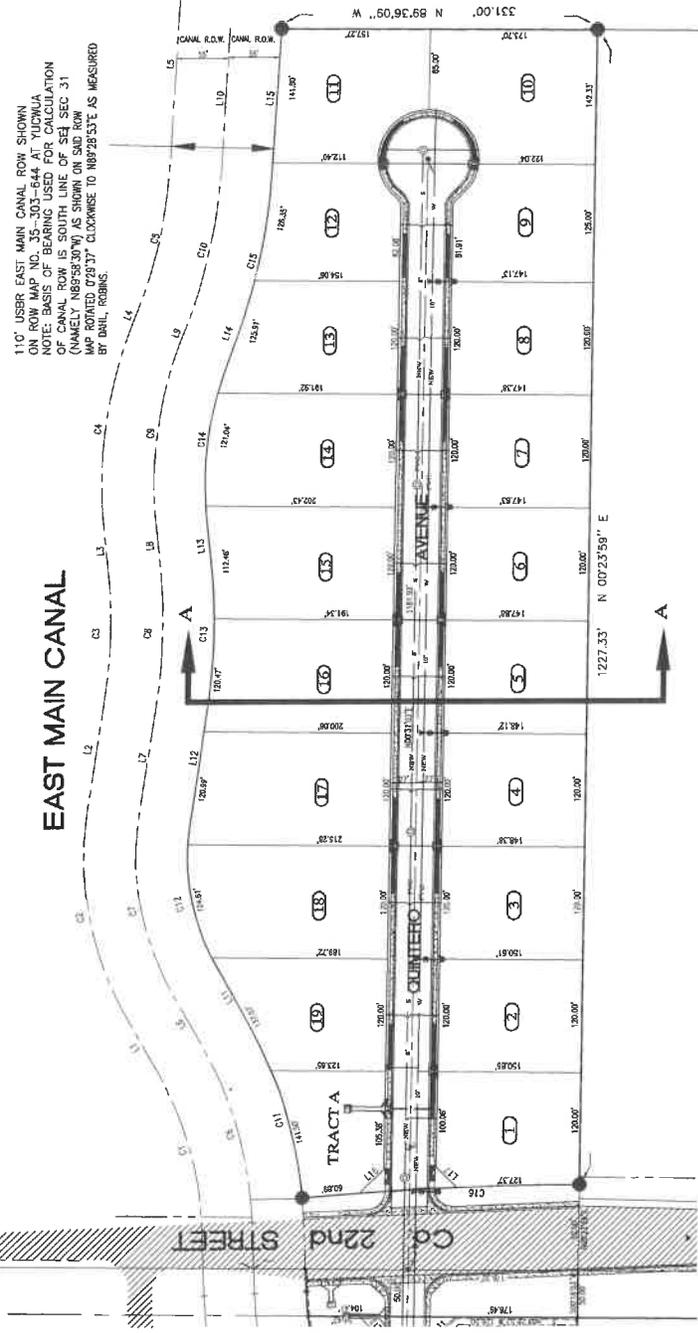
Development Agreement Las Quintas de San Luis 3

Exhibit B

LAS QUINTAS DE SAN LUIS 3 SUBDIVISION

A SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER LYING EAST MAIN CANAL AND PARCEL B OF THE BARKLEY LOT SPLIT NO.2 AS RECORDED IN BOOK 67 OF PLATS, PAGE 27, Y.C.R., BEING A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, TOGETHER IN SECTION 6, TOWNSHIP 11 SOUTH, RANGE 24 WEST, GILA AND SALT RIVER BASE AND MERIDIAN, YUMA COUNTY, ARIZONA

DATE: JUNE 2018 ACREAGE - 10.52 AC



LINE DATA

Line #	Length	Bearing	Area	Dist. to	Dist. from
L1	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L2	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L3	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L4	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L5	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L6	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L7	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L8	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L9	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L10	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L11	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L12	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L13	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L14	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00
L15	123.00	S 89° 36' 09" W	1172.33	1172.33	0.00

LOT AREAS

Lot #	Area
1	1172.33
2	1172.33
3	1172.33
4	1172.33
5	1172.33
6	1172.33
7	1172.33
8	1172.33
9	1172.33
10	1172.33
11	1172.33
12	1172.33
13	1172.33
14	1172.33
15	1172.33

TRACT AREA

Tract #	Area
1	1172.33
2	1172.33

CURB DATA

Curve #	Length	Radius	Chord	Delta	Area
C1	100.00	100.00	100.00	90.00	15708.00
C2	100.00	100.00	100.00	90.00	15708.00
C3	100.00	100.00	100.00	90.00	15708.00
C4	100.00	100.00	100.00	90.00	15708.00
C5	100.00	100.00	100.00	90.00	15708.00
C6	100.00	100.00	100.00	90.00	15708.00
C7	100.00	100.00	100.00	90.00	15708.00
C8	100.00	100.00	100.00	90.00	15708.00
C9	100.00	100.00	100.00	90.00	15708.00
C10	100.00	100.00	100.00	90.00	15708.00
C11	100.00	100.00	100.00	90.00	15708.00
C12	100.00	100.00	100.00	90.00	15708.00
C13	100.00	100.00	100.00	90.00	15708.00
C14	100.00	100.00	100.00	90.00	15708.00
C15	100.00	100.00	100.00	90.00	15708.00

LEGEND

- CENTERLINE
- BOUNDARY LINE
- ROOT OF WAY LINE
- NEW PROPERTY LINE
- NEW PAV. CENTER LINE
- FOUND MONUMENT (TYPE AS SHOWN)
- NEW STREET MONUMENT AS PER YUMA COUNTY STD. No. 4-005
- MONUMENT FOR YUMA COUNTY STD. No. 4-005
- INDICATES BRASS CAP
- B.C. INDICATE BRASS CAP
- H.K. INDICATE HAND HOLE
- NEW LOT NUMBER
- ASSESSOR'S PARCEL NUMBER
- Y.C.R.O.
- NEW SINK SERVICE
- NEW SINK WATER SERVICE
- NEW SINK WATER SERVICE
- NEW WATER VALVE
- NEW MANHOLE
- NEW FIRE HYDRANT

OWNER/DEVELOPER
RIEDEL HOLDINGS, LLC
 500 W. 11th St. #200
 Yuma, AZ 85409
 (928) 827-0000

PREPARED BY:
Engineering, Inc.
 3075 S. AVENUE 4 E
 YUMA, ARIZONA 85306
 (928) 794-2500

CONCEPTUAL PLAN
 (THIS PLAN IS FOR INFORMATION
 OR RECONSTRUCTION
 FOR REVIEW ONLY.)

SECTION A-A
SCALE: 1"=20'

SHEET 1 OF 1