



# Order

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

No. 2020-11B

**AN ORDER OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING COUNCIL ORDERS NUMBERED 2020-11 AND 2020-11A AUTHORIZING AND DIRECTING THE ACQUISITION OF ALL PROPERTY NECESSARY FOR THE COMPLETION OF THE CONSTRUCTION OF A PORTION OF COUNTY 23½ STREET WITHIN THE CITY OF SAN LUIS BY DEDICATION, DONATION, PURCHASE, EXCHANGE, OR UNDER THE POWER OF EMINENT DOMAIN AS A MATTER OF PUBLIC NECESSITY.**

**WHEREAS**, the City of San Luis is experiencing rapid growth of residential subdivisions in the territory of the city south of the County 23<sup>rd</sup> Street alignment, east of Ave F and west of Avenue E;

**WHEREAS**, a traffic study conducted by Nicklaus Engineering, Inc. has determined that development of County 23 ½ Street to connect to Avenue E is necessary for public health and safety due to residential growth as described above;

**WHEREAS**, acquiring certain property for right of way purposes is necessary and convenient to the design, construction, expansion, widening, maintenance, improvement, and ongoing use of County 23 ½ Street between Avenue F and Avenue E in the municipal limits of the City of San Luis;

**WHEREAS**, in their orders numbered 2020-11 and 2020-11A, the Mayor and City Council have determined and found that the property to be taken is necessary for these public purposes; and

**WHEREAS**, litigation for eminent domain commenced in Civil Action No. S1400CV2020-00253, Yuma County Superior Court ("pending litigation"), and a motion to dismiss is pending in the action;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY** the Mayor and Council of the City of San Luis, Arizona as follows:

**Section 1.** It is deemed necessary and essential as a matter of public use and necessity that County 23½ Street be developed to connect from Avenue F to Avenue E (the "Project"). It is deemed essential as a matter of public use and necessity that necessary property and associated rights of way be acquired, including by eminent

domain, for construction, maintenance, and completion of the Project. It is also deemed essential as a matter of public use and necessity that the city acquire an order of immediate possession in the pending litigation. The property described in Subpart A below is deemed essential as a matter of public use and necessity for the construction, maintenance, and completion of the Project. However, due to the issues raised in the pending litigation that may delay an order of immediate possession of the property described in Subpart A, if it becomes a choice of (1) a delay to secure an order of immediate possession of the property described in Subpart A or (2) obtaining an order for immediate possession without delay of a lesser amount of property as described in Subpart B, it is deemed essential that at a minimum the city obtain the lesser amount of property to avoid further delay. Therefore, the property described in the alternative Subpart B below is also deemed essential as a matter of public use and necessity for the construction, maintenance, and completion of the Project:

**Subpart A:**

The north 40 feet of the Northeast Quarter of the Southeast Quarter of Section 10, Township 11 South, Range 24 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, except the east 33 feet thereof and except that property deeded to Yuma County per warranty deed recorded at Fee 2006-01559, and including the right to discharge stormwater from both County 23 ½ Street and 21st Avenue onto the adjacent property.

**Alternate Subpart B:**

The north 30 feet of the Northeast Quarter of the Southeast Quarter of Section 10, Township 11 South, Range 24 West, Gila and Salt River Base and Meridian, Yuma County, Arizona, except the east 33 feet thereof and except that property deeded to Yuma County per warranty deed recorded at Fee 2006-01559, and including the right to discharge stormwater from both County 23 ½ Street and 21st Avenue onto the adjacent property.

The Project is further depicted on Exhibit "A" attached which is incorporated into this order by this reference. The property described in Subpart B is a component of the property described in Subpart A.

**Section 2.** To the extent necessary, Order Nos. 2020-11 and 2020-11A of the Mayor and Council of the City of San Luis are amended to conform to this order.

**Section 3.** City Council directs staff to acquire the above-described property, including by eminent domain, for construction, maintenance, and completion of the Project.

**Section 4.** The property affected by this order is necessary for the development, design, and construction of the Project.

[Intentionally blank, last section and signature page follow]

**Section 5.** Should the need arise, City Council authorizes the Mayor or the City Manager to execute any documents that may be necessary to carry out this order.

**PASSED, ADOPTED and APPROVED** by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this \_\_\_\_ day of June 2020.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Sonia Cornelio, City Clerk

\_\_\_\_\_  
Kay Marion Macuil, City Attorney