

AGREEMENT
BETWEEN
THE CITY OF SAN LUIS
AND
THE GREATER YUMA PORT AUTHORITY
FOR INFRASTRUCTURE IMPROVEMENTS AT MAGRINO INDUSTRIAL PARK

THIS AGREEMENT is entered into this ____ day of March 2022, between the CITY OF SAN LUIS, ARIZONA (the “CITY”) and the GREATER YUMA PORT AUTHORITY, a non-profit corporation consisting of governmental and tribal members (“GYPA”).

I. RECITALS

1. The Yuma County, Arizona has entered into an intergovernmental agreement with the GYPA, said agreement being approved by action of the Yuma County Board of Supervisors at its meeting of February 7, 2022 (hereinafter referred to as “COUNTY GYPA IGA”).
2. The GYPA IGA allocates American Rescue Plan Act funds for the construction of certain infrastructure improvements in the Magrino Industrial Park for the subdivision known as Magrino Unit No. 4 (“MIP”) located in CITY and provides for COUNTY to manage the construction of infrastructure as provided in the COUNTY GYPA IGA (the “Project”).
3. The infrastructure improvements referred to in paragraph 2 above are to become public infrastructure of the CITY and are being developed pursuant to the requirements of the Subdivision Regulations and Public Works Standards of the CITY.
4. The CITY and GYPA are authorized to enter into this agreement pursuant to A.R.S. §§9-240.B.3-6; 9-240.B.8; 9-276.A.1-4; 9-499.01; 9-463.01; 9-463.01.C.8; 10-3302; 11- 951; and actions of the City Council of the City of San Luis and the Board of Directors of the Greater Yuma Port Authority.

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

II. SCOPE

1. The **CITY** will:

- a. Accept the COUNTY GYPA IGA, in particular the contractual obligations of financing and construction management of Yuma County as contained within said COUNTY GYPA IGA as the financial assurances for the subdivision known as Magrino Unit No. 4 provided: i) that the improvements are completed and constructed to city regulations and standards; ii) have been accepted the city as provided in the Subdivision Regulations of the City; and iii) provided that GYPA posts assurances for the warranty period as provided by Section 6.2 of the Subdivision Regulations, as amended.
- b. Will accept and maintain all public infrastructure improvements within the MIP as an industrial subdivision once constructed in accordance with approved plans and in accordance with the ordinances and regulations of CITY.

2. The **GYPA** will:

- a. Construct the Project and all improvements within the subdivision in accordance with the ordinances and regulations of CITY including, but not limited to, the Public Works Standards and the Subdivision Regulations of the CITY. GYPA understands and agrees that the improvements of the Subdivision will not be accepted by the CITY until all work for all public improvements for the subdivision known as Magrino Unit No. 4 have been completed in full to all city regulations and standards, and financial assurances are posted for the warranty period as provided in the Subdivision Regulations of CITY.
- b. GYPA understands and agrees that the Plat for Magrino No. 4 will not be recorded and that no lots in Magrino No. 4 may be sold until all improvements for Magrino No. 4 have been constructed and accepted by CITY as provided herein and proper financial assurances have been posted for the warranty period as heretofore stated.

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III. MISCELLANEOUS PROVISIONS

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

Greater Yuma Port Authority
Chairman and Executive Director
P.O. Box 4601
Yuma, Arizona 85366-4601

City of San Luis
Public Works Director
1090 E. Union St.
P.O. Box 1170
San Luis, Arizona 85349

2. Neither GYPA or CITY nor any officer or employee thereof is responsible for any damage or liability occurring by reason of any negligent act or omission committed by the employees of GYPA or CITY acting within the scope of their employment under or in connection with any work, authority or jurisdiction delegated to GYPA or CITY under this Agreement.
3. This Agreement shall terminate upon completion of the Project or five (5) years from the date of execution, whichever first occurs.
4. This Agreement is governed by the laws of the State of Arizona. It is subject to the cancellation provisions of A.R.S. §38-511.
5. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, and this Agreement shall otherwise remain in full force and effect.
6. This Agreement shall remain in full force and effect until completion of the Project.
7. This Agreement contains the entire agreement between the parties, and no oral or written statements, promises, or inducements made by either party or its agents not contained or specifically referred to in this Agreement are valid or binding. All modifications to this Agreement must be in writing, signed and endorsed by the parties.

8. If either party brings an action or proceeding for failure to observe any of the terms or provisions of this Agreement, the prevailing party is entitled to reasonable attorney fees and costs.

9. The CITY agrees to defend, indemnify, and hold harmless the GYPA from all losses, liability, claims or expenses (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or misconduct of the CITY, except to the extent same are caused by the negligence or willful misconduct of the GYPA. It is the intent of this section to require the CITY to indemnify the GYPA to the extent permitted under Arizona law.

10. The GYPA agrees to defend, indemnify, and hold harmless the CITY from all losses, liability, claims or expenses (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or misconduct of the GYPA, except to the extent same are caused by the negligence or willful misconduct of the CITY. It is the intent of this section to require the GYPA to indemnify the CITY to the extent permitted under Arizona law

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year below written.

CITY OF SAN LUIS

Attest:

Gerardo Sanchez, Mayor

Sonia Cornelio, City Clerk

This ____ day of March 2022.

GREATER YUMA PORT AUTHORITY

Matias Rosales, Chairman

This ____ day of _____ 2022.

Pursuant to Arizona Revised Statutes §11-952, the foregoing Agreement has been submitted to the undersigned Attorney for the City of San Luis, Arizona. The undersigned has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the City of San Luis.

Kay Marion Macuil, City Attorney

Pursuant to Arizona Revised Statutes §11-952, the foregoing Agreement has been submitted to the General Counsel for the Great Yuma Port Authority. The undersigned has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Greater Yuma Port Authority.

Wayne Benesch, General Counsel