



# Resolution

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

No. 2294

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AUTHORIZING AND DIRECTING THE ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH YUMA COUNTY TO CONSTRUCT WITH FEDERAL FUNDS FIVE FOOT PAVED SHOULDERS AND EDGE LINE RUMBLE STRIPS ON AVENUE B, BETWEEN COUNTY 18<sup>TH</sup> STREET AND COUNTY 23<sup>RD</sup> STREET, AN AREA WITHIN YUMA COUNTY AND ALSO PARTIALLY WITHIN THE LIMITS OF THE CITY OF SAN LUIS, ARIZONA; SUPERSEDING CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

BE IT RESOLVED by the Mayor and City Council of the City of San Luis, Arizona:

**Section 1:** The Mayor and City Council deem that it is in the best interest of the City of San Luis' residents to contract with Yuma County to construct Avenue B from County 18<sup>th</sup> Street to County 23<sup>rd</sup> Street, an area within Yuma County and partially within San Luis, Arizona.

**Section 2:** A true copy of the intergovernmental agreement is incorporated into this resolution as though set forth again in full.

**Section 3:** The Mayor is authorized and directed to execute the said agreement for and on behalf of the City of San Luis.

**Section 4:** City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

**Section 5:** If a conflict arises between this resolution and any other ordinance, resolution, regulation, or policy of the City of San Luis, the conflicting provisions are amended, superseded, and replaced, and this resolution shall govern.

**Section 6:** If any section, subsection, sentence, clause phrase, or a portion of this resolution is held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this resolution.

[Intentionally left blank, signature page follows.]

**PASSED, ADOPTED, and APPROVED** by the Mayor and City Council of the City of San Luis, Yuma County, Arizona, this \_\_\_\_ day of November 2023.

\_\_\_\_\_  
Nieves Riedel, Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF SAN LUIS AND YUMA COUNTY  
FOR DESIGN AND CONSTRUCTION OF THE AVENUE B, CO. 18<sup>th</sup> STREET  
TO CO. 23<sup>rd</sup> STREET PROJECT**

This Intergovernmental Agreement (“Agreement”) is entered into by and between the City of San Luis, Arizona, a municipal corporation of the State of Arizona (“CITY”) and Yuma County, a political body (“COUNTY”). COUNTY and the CITY are sometimes hereafter referred to individually as the “PARTY” and collectively as the “PARTIES”.

**RECITALS**

**WHEREAS**, Arizona Revised Statutes (A.R.S.) §11-251 and A.R.S. §11-951 et seq. authorize the COUNTY to enter into this Agreement, and the CITY’s Charter authorizes the CITY to enter into this Agreement; and

**WHEREAS**, a public need exists for installation of five foot paved shoulders and edge line rumble strips on Avenue B, between County 18<sup>th</sup> Street to County 23<sup>rd</sup> Street, an area within Yuma County and also partially within the city limits of the City of San Luis, hereafter referred to as the “PROJECT” delineated upon the map attached hereto and incorporated as Exhibit “A”; and

**WHEREAS**, A.R.S. §28-6701 et seq. authorizes the COUNTY to maintain, control and manage public roads within the COUNTY; and

**WHEREAS**, Yuma County, through the Yuma Metropolitan Planning Organization, submitted an application for Highway Safety Improvement Program (“HSIP”) funds to increase safety and reduce accidents on Avenue B, between County 18<sup>th</sup> Street to County 23<sup>rd</sup> Street in Yuma County; and

**WHEREAS**, the State of Arizona, acting by and through its Department of Transportation (“ADOT”), has provided HSIP funding and has signed an IGA with Yuma County, a copy of which is attached hereto and incorporated as Exhibit “B”. ADOT will administer the design of the PROJECT, and will advertise, bid and administer the construction contract for the PROJECT; and

**WHEREAS**, the PARTIES have agreed that the completion of said PROJECT is essential to the public safety and welfare and desire to cooperate in the completion of said PROJECT; and

**NOW, THEREFORE**, in consideration of the terms and conditions contained in the Recitals and herein, the PARTIES agree as follows:

**SECTION 1. PURPOSE.** The purpose of this Agreement is to provide for the Design and Construction of the PROJECT for the benefit of the citizens and residents of the COUNTY, the CITY, and the public in general.

**SECTION 2. DURATION.** This Agreement shall become effective on the date it is adopted, approved and fully executed by both the CITY and the COUNTY and shall continue in full

force and effect until the PROJECT has been completed and accepted in writing and signed by the CITY and the COUNTY provided however, that the maintenance responsibilities of the PARTIES will survive this Agreement.

**SECTION 3. DESIGN.** The PROJECT shall be designed by ADOT and their consultant in accordance with Federal, State, and local laws and regulations.

**SECTION 4. RIGHT-OF-WAY ACQUISITION.** The COUNTY and the CITY currently own adequate Right of Way to construct the PROJECT.

**SECTION 5. MANNER OF FINANCING.** The manner of financing the joint undertaking as provided for under this Agreement shall be as hereinafter set forth. The total estimated project cost is \$4,470,329. ADOT has provided \$4,248,607.00 of HSIP funding for the PROJECT. The local matching share (5.7%) is \$221,722. The CITY and COUNTY have each budgeted sufficient funds for the costs required for the design and construction of the PROJECT. The estimated ADOT Project Development Administration (PDA) and design costs are estimated at \$465,350.00 and the construction costs are estimated at \$4,004,979.00. The local matching share between the COUNTY and the CITY is \$146,114.80 (65.9%) and \$75,607.20 (34.1%) respectively. The aforementioned are Estimated Costs to be adjusted to actual costs following the completion of design of the PROJECT.

**SECTION 6. OBLIGATIONS OF THE PARTIES.**

**A. COUNTY OBLIGATIONS.**

1. The COUNTY shall provide \$146,114.80 in Yuma County funds.
2. The COUNTY shall invoice the CITY for \$9,045.03 for Design and ADOT PDA costs once the IGA is executed currently scheduled for FY24.
3. The COUNTY shall invoice the CITY for \$66,562.18 for construction costs prior to ADOT advertising the PROJECT for construction currently scheduled for FY26.
4. The COUNTY shall provide a copy of the design plan submittals to the CITY for review and approval.
5. Be responsible for 65.9% of any design or construction costs that exceed the estimated project costs.

**B. CITY OBLIGATIONS.**

1. The CITY share of the PROJECT costs is currently estimated at \$75,607.20.
2. The CITY shall make payment upon receipt of invoice in the amount of \$9,045.03 for design and ADOT PDA costs currently scheduled in FY24.
3. The CITY shall make payment upon receipt of invoice in the amount of \$66,562.18 for construction costs currently scheduled for FY26.
4. The CITY shall make payment of the full amount of the invoices from the COUNTY within thirty (30) days of receipt of each invoice referenced in Section 6(A). Upon completion of the PROJECT, the total actual cost of the PROJECT having been determined, any refund or additional payments shall

- be paid within thirty (30) days thereafter.
5. The CITY shall review and provide comments on the design plan submittals and approve the final PROJECT design plans, such approval not to be unreasonably withheld.
  6. Grant the COUNTY, its agents and/or contractors, without cost, the right to enter CITY's right-of-way as required to conduct any and all pre-construction related activities for said PROJECT, including without limitation, temporary construction easements or temporary rights of entry.
  7. Be responsible for 34.1% of any design or construction costs that exceed the estimated project costs.

**SECTION 7. OWNERSHIP AND MAINTENANCE.** Upon completion of the PROJECT, the CITY and the COUNTY will continue to each be responsible for the same maintenance of the PROJECT and improvements as exist prior to this Agreement.

**SECTION 8. AUTHORIZATION.** This Agreement has been approved by actions taken by each of the governing bodies of each PARTY. In such respective action, the undersigned were authorized and directed to execute this Agreement.

**SECTION 9. CONFLICT OF INTEREST.** This Agreement is subject to the conflict of interest provisions of ARS § 38-511, as amended, the provisions of which are incorporated herein.

**SECTION 10. TERMINATION.** This Agreement shall terminate upon the completion of all actions necessary with regard to the PROJECT as described herein except as to the maintenance responsibilities of the PARTIES referenced herein shall remain in effect indefinitely.

**SECTION 11. COMPLIANCE WITH LAW.** The COUNTY and the CITY must comply with all Federal, State and Local Laws and Ordinances applicable to its performance under this Agreement.

**SECTION 12. ATTORNEY FEES AND COSTS.** 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 as determined by the court.

**SECTION 13. SEVERABILITY.** If any terms, parts, or provisions of this Agreement are for any reason invalid or unenforceable, the remaining terms, parts, or provisions are nevertheless valid and enforceable.

**SECTION 14. INTEGRATION.** 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 is valid or binding. All modifications to this Agreement must be in writing, signed and endorsed by the PARTIES.

**SECTION 15. NO PARTNERSHIP.** Nothing in this Agreement constitutes a partnership or joint venture between the PARTIES, and neither PARTY is the principal or agent of the other.

**SECTION 16. HOLD HARMLESS/INDEMNIFICATION CLAUSE.** Each PARTY, and its agents, officials, representatives, and employees agrees to defend, indemnify, and hold harmless the other PARTY, and its agents, officials, representatives and employees from and against all losses, claims, liabilities, damages, or expenses (including reasonable attorney's fees and costs) resulting from, arising out of, or related to, that PARTY's negligent or intentional acts, mistakes, misconduct, or omissions in the performance of this Agreement.

**SECTION 17. NOTICES.** All notices or demands upon any PARTY to this Agreement shall be in writing and all shall be delivered in person or sent by certified mail addressed as follows:

City of San Luis  
Eulogio Vera  
Director of Public Works  
PO Box 3750  
San Luis, Arizona 85349

Yuma County Department of Engineering  
Frank Sanchez  
County Engineer  
2351 W. 26<sup>th</sup> Street  
Yuma, Arizona 85364

**SECTION 18. EMPLOYMENT ELIGIBILITY.** Each PARTY warrants, and shall require its subcontractors to warrant that it is in compliance with all federal immigration laws and regulations that relate to its employees and with A.R.S. § 23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of this Agreement. The PARTIES retain the legal right to inspect the citizenship documents of any PARTY employee or subcontractor employee who works under this Agreement, to ensure that the other PARTY or its subcontractors are complying with this warranty.

**SECTION 19. THIRD-PARTY BENEFICIARIES.** The terms of this Agreement are intended only to define the respective rights and obligations of the PARTIES. Nothing expressed herein shall create any rights or duties in favor of any potential third party beneficiary or other person, agency, or organization. Nothing expressed herein, shall affect the legal liability of either PARTY to this Agreement by imposing any standard of care different from the standard of care imposed by law.

**SECTION 20. ASSIGNMENT.** This Agreement is not assignable without the mutual written consent of both PARTIES.

**SECTION 21. APPLICABLE LAW; VENUE.** Any action to enforce any provision of this Agreement or to obtain any remedy with respect this Agreement shall be brought exclusively in the Superior Court, Yuma County, Arizona (or, as may be appropriate, in the United States District Court for the District of Arizona, if, and only if, the Superior Court lacks jurisdiction over such action). The PARTIES expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action.

**SECTION 22. COUNTERPARTS.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original as against the PARTY signing such counterpart, but which shall constitute one and the same instrument.

**SECTION 23. INSURANCE.** Each PARTY acknowledges and agrees that the other PARTY is

self-insured.

IN WITNESS WHEREOF, this Agreement has been executed on the dates and year herein below.

DATE: \_\_\_\_\_, 2023

DATE: \_\_\_\_\_, 2023

**CITY OF SAN LUIS**

**YUMA COUNTY**

\_\_\_\_\_  
Nieves Riedel  
Mayor

\_\_\_\_\_  
Martin Porchas, Chairman  
Board of Supervisors

ATTEST:

ATTEST:

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

\_\_\_\_\_  
Ian McGaughey  
County Administrator/Clerk of the Board

The foregoing Agreement has been submitted to the undersigned City Attorney for the City of San Luis, Arizona. The undersigned has determined this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona and City Charter to the City of San Luis.

\_\_\_\_\_  
San Luis City Attorney

Pursuant to A.R.S. § 11-952, the foregoing Agreement has been submitted to the undersigned Attorney for Yuma County, Yuma, 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 Yuma County:

JON R. SMITH, County Attorney

\_\_\_\_\_  
MINDA M. DAVY  
Deputy County Attorney

Exhibit "A"

Project Location Map

Ave. B, Co. 18<sup>th</sup> St. to Co. 23<sup>rd</sup> St, Shoulder Widening & Rumble Strips CIP No 1.2404

