



Order

No. 2026-02

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

AN ORDER OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, APPROVING THE SETTLEMENT AGREEMENT FOR CASE NO. S1400CV202300365 THE CITY OF SAN LUIS VERSUS BORDER RANCHES II AND CASE NO. S1400CV202300366 THE CITY OF SAN LUIS VERSUS ROGERS IN YUMA COUNTY SUPERIOR COURT; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

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

Section 1: The settlement agreement, case number S1400CV202300365, which is attached to this Order as Exhibit A, is by this Order approved and adopted.

Section 2: The settlement agreement, case number S1400CV202300366, which is attached to this Order as Exhibit B, is by this Order approved and adopted.

Section 3: If a conflict arises between the provisions of this Order and any other ordinance, resolution, order, regulation, or policy of the City of San Luis, the conflicting provisions are amended, superseded, and replaced, and this Order shall govern.

Section 4: If any section, subsection, sentence, clause, phrase, or portion of this Order is held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction or operation of law by legislation, such decision or law shall not affect the validity of the remaining portion of this Order.

Section 5: The City Manager, the City Attorney, and all other appropriate City officials are authorized and directed to take all actions necessary or desirable to give effect to this Order.

[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 April 2026.

Nieves Riedel, Mayor

ATTEST:

APPROVED AS TO FORM:

Sonia Cornelio, City Clerk

Joe Estes, Interim City Attorney

Exhibit

A

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into as of the ____ day of _____, 2026 by and among Border Ranches II, L.L.C., Jim D. Smith, and the City of San Luis, a municipal corporation.

RECITALS

A. Border Ranches II owns a parcel of land located on County 24th Street and Avenue E within the City, which is identified as APN 227-10-003 (“Subject Property”).

B. By Order 2023-01, dated January 25, 2023, the City authorized and directed appropriate proceedings to acquire all property required for the design, construction, widening, expansion and maintenance of a portion of 21st Avenue and a portion of County 24th Street for a transportation improvement project, which includes portions of the Subject Property.

C. On June 21, 2023, the City filed a Complaint in Yuma County Superior Court against Rogers, among other parties, to condemn a portion of the Subject Property (“Litigation”).

D. Upon stipulation, the Court entered an Order Granting Immediate Possession to the City and Right of Immediate Withdrawal. After the City posted a bond in the amount of \$168,200 with the Yuma County Superior Court, the County withdrew \$1,861.36 for payment of 2023 taxes owed and Border Ranches II withdrew \$166,338.64.

E. The parties now desire to settle and compromise the Litigation and avoid the costs and risks of any further litigation based on the facts alleged therein.

AGREEMENT

NOW, THEREFORE, in consideration for the parties entering into this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties acknowledge and expressly agree as follows:

1. After execution of this Agreement, the Parties shall execute a Stipulated Judgment in Condemnation by the court in the Litigation in which the City will pay Border Ranches II, for the fair market value of the property condemned in the Litigation, an additional \$100,000 over the amount already withdrawn, and waive repayment of the costs of this Litigation, including reimbursement for the right-of-way acquisition of the Subject Property described in the Litigation under City Code Section 15.10.130(E). Nothing in this Agreement waives or modifies any impact fees, development or permit fees, infrastructure requirements, existing payback agreements applicable to future development of the property, or any other requirements under applicable City Codes or Ordinances.

2. Within thirty (30) days of execution of the Stipulated Judgment in Condemnation, the City will issue payment to Border Ranches II. Upon payment, the Parties will file a Satisfaction of Judgment and Final Order of Condemnation.

3. In consideration of the promises contained herein, Border Ranches II and Smith hereby release and forever discharge the City, its past, present and future Councilmembers, attorneys, agents, servants, representatives, employees, departments and divisions, and all named defendants in the Litigation, from any and all past or present claims, demands, obligations, actions, causes of action, rights, damages, costs, legal fees, expenses, penalties and compensation of any nature whatsoever, known or unknown, which they may now have arising out of the acts,

omissions, events, circumstances and transactions which are the subject of the Litigation. This Agreement is not intended as a release of any claims Border Ranches II or Smith may have against the City arising out of the terms of this Agreement.

4. Border Ranches II warrants that it is the sole owner of the Property and has not assigned any claims to the Litigation.

5. In the event any action is filed to enforce or defend this Agreement, the prevailing party in such action shall be entitled to, in addition to any other damages or relief available to them, an award of reasonable attorneys' fees and costs incurred in connection with such action, including in any bankruptcy or appellate proceeding.

6. In executing this Agreement, each party hereto acknowledges that it has consulted with and had the advice of counsel of its own choosing in negotiations for and preparation of this Agreement and was fully advised by counsel with respect to all rights which are affected by this Agreement.

7. For purposes of construction and interpretation, this Agreement shall be deemed to have been jointly drafted by counsel for the parties and ambiguities, if any, shall not be construed for or against any party.

8. This Agreement is made and entered into in the State of Arizona and shall in all respects be interpreted, enforced, and governed under the laws of the State of Arizona. Any dispute with respect to the performance or enforceability of this Agreement shall be filed in the Superior Court for the County of Yuma, State of Arizona.

9. This is the entire Agreement among the parties with respect to the subject matter hereof. It includes all of the terms, promises, representations and understandings made by the parties, and it supersedes any earlier written or oral understandings or agreements between the parties concerning this Agreement or settlement of the Litigation. No party hereto nor its respective attorneys or advisors or agents have made any promise, representation or warranty, whether expressed, implied or statutory, not contained herein, concerning the subject matter of this Agreement in order to induce the parties hereto to execute this Agreement, and each signatory acknowledges that such party has not executed this instrument in reliance on any promise, representation or warranty not contained herein.

10. Each party to this Agreement certifies that it has read all of this Agreement and fully understands all of the same.

11. Each party to this Agreement will cooperate reasonably and in good faith and diligently perform any further acts, deeds and things and execute and deliver any documents that may from time to time be reasonably necessary or otherwise reasonably required to consummate, evidence, confirm and/or carry out the intent and provisions of this Agreement, all without undue delay or expense and without further consideration.

12. This Agreement may be executed in counterparts and via facsimile with the same force and effect as if executed in one complete document. Any party executing this Agreement by facsimile shall provide the other party with an originally executed Agreement within five days.

13. If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under any law applicable to the terms hereof, then the remainder of this Agreement shall not be affected thereby.

14. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors, affiliates, directors, officers, members and assigns; provided, however, the foregoing shall not be deemed or construed to confer any right, title, benefit, cause of action or remedy upon any person or entity not a party hereto, which such party would not nor did not otherwise possess.

15. By executing this Agreement, the City warrants that this Agreement has been duly and lawfully approved at a properly noticed meeting of the City Council of the City of San Luis.

16. The waiver by any party of any right granted to it hereunder shall not be deemed a waiver of any other right.

17. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511, but the parties hereto do not believe any such reasons for cancellation of this Agreement pursuant to said statute now exist.

18. This Agreement shall be effective upon the execution by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

BORDER RANCHES II

By: _____
Name: _____
Title: _____

JIM D. SMITH

By: _____
Name: _____
Title: _____

CITY OF SAN LUIS

By: _____

ATTEST:

City Clerk

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____,
2026, by Nels Rogers on behalf of Border Ranches II.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____,
2026, by Jim D. Smith.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____,
2026, by _____, Mayor of the City of San Luis for and
on behalf of the City of San Luis.

Notary Public

My Commission Expires:

Exhibit

B

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into as of the _____ day of _____, 2026 by and among Nels Rogers (“Rogers”) and the City of San Luis, a municipal corporation (“City”).

RECITALS

A. Rogers owns a parcel of land located on County 24th Street and 21st Avenue within the City, which is identified as APN 227-10-004, and which contains a wastewater lift station that is owned and operated by the City (“Subject Property”).

B. By Order 2023-01, dated January 25, 2023, the City authorized and directed appropriate proceedings to acquire all property required for the design, construction, widening, expansion and maintenance of a portion of 21st Avenue and a portion of County 24th Street for a transportation improvement project and to acquire fee title to the land on which the wastewater lift station is located, both of which include portions of the Subject Property.

C. On June 21, 2023, the City filed a Complaint in Yuma County Superior Court against Rogers, among other parties, to condemn a portion of the Subject Property (“Litigation”).

D. Upon stipulation, the Court entered an Order Granting Immediate Possession to the City and Right of Immediate Withdrawal. After the City posted a bond in the amount of \$27,500 with the Yuma County Superior Court, the County withdrew \$3,206.48 for payment of 2023 taxes owed and Rogers withdrew \$24,293.52.

E. The parties now desire to settle and compromise the Litigation and avoid the costs and risks of any further litigation based on the facts alleged therein.

AGREEMENT

NOW, THEREFORE, in consideration for the parties entering into this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties acknowledge and expressly agree as follows:

1. Rogers shall submit a completed Subdivision Application Form (2 pages) together with all required documentation as listed in the application submittal checklist and in accordance with the Subdivision Regulations to correct the lot split/lot tie that occurred in or about 2017 and 2019. The Subdivision Application shall be processed administratively in accordance with State law.

2. Rogers will also submit a rezoning application to the City for general commercial (C-2) zoning of the Subject Property. Upon Rogers’ submission of a complete rezoning application, the rezoning application can proceed through the legislative process concurrently with the application for minor general plan amendment as discussed in Section 3 below.

3. Upon approval of the Subdivision Application concerning the 2017/2019 lot split/lot tie and submission of a complete rezoning application, City Staff will re-set Minor Amendment Case No. 2022-0029, continued by action on February 8, 2022, for a new public hearing and action by the Planning and Zoning Commission along with the rezoning application.

4. Following Planning and Zoning Commission hearing and action on Minor Amendment Case No. 2022-0029 and rezoning application, City Staff agrees to recommend

approval of both applications to the City Council subject to compliance with all applicable City codes and regulations in the future development of the Subject Property.

5. The City agrees that in connection with the subdivision application, rezoning application, and minor general plan amendment for the Subject Property: i) the City shall waive the application fees associated with the subdivision and rezoning applications; ii) Rogers shall not be required to dedicate additional right-of-way beyond interior streets within the Subject Property; and iii) the City shall waive any right to reimbursement for litigation costs and right-of-way acquisition costs associated with the Subject Property under City Code Section 15.10.130(E). Except as expressly stated herein, nothing in this Agreement waives or modifies any impact fees, development or permit fees, infrastructure requirements, existing payback agreements, or any other applicable requirements under City Code or Ordinances

6. The Parties agree that the Litigation shall remain pending while the events outlined in Sections 1 through 4 above proceed. In the event Rogers does not file the Subdivision Application or rezoning application set forth in Section 1 above within ninety (90) days of execution of this Agreement, the Agreement shall automatically terminate, and the Litigation will resume unless the Parties agree in writing to extend or amend the Agreement prior to its termination.

7. Promptly after the effective date of a minor general plan amendment and rezoning of the Subject Property, if approved, the Parties shall execute a Stipulated Judgment in Condemnation by the court in the Litigation in which the City will pay Rogers, for the fair market value of the property condemned in the Litigation, an additional \$27,500 over the amount Rogers has already withdrawn.

8. Within thirty (30) days of execution of the Stipulated Judgment in Condemnation, the City will issue payment to Rogers. Upon payment, the parties will file a Satisfaction of Judgment and Final Order of Condemnation.

9. The Parties' obligations under this Agreement are conditioned upon City approval of the Subdivision Application, minor general plan amendment and rezoning of the Subject Property. If the City does not approve any of these, this Agreement shall automatically terminate and the Litigation resumed.

10. In consideration of the promises contained herein, Rogers hereby releases and forever discharges the City, its past, present and future Councilmembers, attorneys, agents, servants, representatives, employees, departments and divisions, and all named defendants in the Litigation, from any and all past or present claims, demands, obligations, actions, causes of action, rights, damages, costs, legal fees, expenses, penalties and compensation of any nature whatsoever, known or unknown, which Rogers may now have arising out of the acts, omissions, events, circumstances and transactions which are the subject of the Litigation. This Agreement is not intended as a release of any claims Rogers may have against the City arising out of the terms of this Agreement.

11. Rogers warrants that it is the sole owner of the Property and has not assigned any claims to the Litigation.

12. In the event any action is filed to enforce or defend this Agreement, the prevailing party in such action shall be entitled to, in addition to any other damages or relief available to them, an award of reasonable attorneys' fees and costs incurred in connection with such action, including in any bankruptcy or appellate proceeding.

13. In executing this Agreement, each party hereto acknowledges that it has consulted with and had the advice of counsel of its own choosing in negotiations for and preparation of this Agreement and was fully advised by counsel with respect to all rights which are affected by this Agreement.

14. For purposes of construction and interpretation, this Agreement shall be deemed to have been jointly drafted by counsel for the parties and ambiguities, if any, shall not be construed for or against any party.

15. This Agreement is made and entered into in the State of Arizona and shall in all respects be interpreted, enforced, and governed under the laws of the State of Arizona. Any dispute with respect to the performance or enforceability of this Agreement shall be filed in the Superior Court for the County of Yuma, State of Arizona.

16. This is the entire Agreement among the parties with respect to the subject matter hereof. It includes all of the terms, promises, representations and understandings made by the parties, and it supersedes any earlier written or oral understandings or agreements between the parties concerning this Agreement or settlement of the Litigation. No party hereto nor its respective attorneys or advisors or agents have made any promise, representation or warranty, whether expressed, implied or statutory, not contained herein, concerning the subject matter of this Agreement in order to induce the parties hereto to execute this Agreement, and each signatory acknowledges that such party has not executed this instrument in reliance on any promise, representation or warranty not contained herein.

17. Each party to this Agreement certifies that it has read all of this Agreement and fully understands all of the same.

18. Each party to this Agreement will cooperate reasonably and in good faith and diligently perform any further acts, deeds and things and execute and deliver any documents that may from time to time be reasonably necessary or otherwise reasonably required to consummate, evidence, confirm and/or carry out the intent and provisions of this Agreement, all without undue delay or expense and without further consideration.

19. This Agreement may be executed in counterparts and via facsimile with the same force and effect as if executed in one complete document. Any party executing this Agreement by facsimile shall provide the other party with an originally executed Agreement within five days.

20. If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under any law applicable to the terms hereof, then the remainder of this Agreement shall not be affected thereby.

21. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors, affiliates, directors, officers, members and assigns; provided, however, the foregoing shall not be deemed or construed to confer any right, title, benefit, cause of action or remedy upon any person or entity not a party hereto, which such party would not nor did not otherwise possess.

22. By executing this Agreement, the City warrants that this Agreement has been duly and lawfully approved at a properly noticed meeting of the City Council of the City of San Luis.

23. The waiver by any party of any right granted to it hereunder shall not be deemed a waiver of any other right.

24. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511, but the parties hereto do not believe any such reasons for cancellation of this Agreement pursuant to said statute now exist.

25. This Agreement shall be effective upon the execution by the Parties.

IN WITNESS WHEREOF, Rogers and the City have executed this Agreement.

NELS ROGERS

By: _____
Name: _____
Title: _____

CITY OF SAN LUIS

By: _____

ATTEST:

City Clerk

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by Nels Rogers.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by _____, Mayor of the City of San Luis for and on behalf of the City of San Luis.

Notary Public

My Commission Expires:
