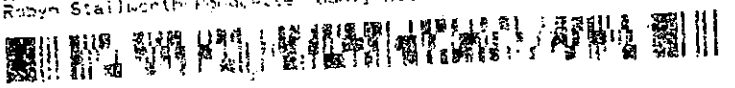
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09/01/2011 12:51:55 PM Pages: 20 Fees: $19.50
Requested By:CITY CLERK
Recorded By: ashepard
Robyn Stallworth Pacheco County Recorder Yuma County AZ



WHEN RECORDED MAIL TO:

Sonia Cuello
City Clerk
City of San Luis
P.O. Box 1170
San Luis, AZ 85349

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CAPTION HEADING:

City of San Luis:
Resolution No. 936-Pre-Annexation Development Agreement San Luis Port II Industrial Park, L.L.C.

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

Resolution

RESOLUTION NO. 936

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING A PREANNEXATION DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND SAN LUIS PORT II INDUSTRIAL PARK, L.L.C.

Whereas, San Luis Port II Industrial Park, L.L.C., an Arizona Limited Liability Company, desires to enter into a preannexation development agreement ("Preannexation Development Agreement")with the City of San Luis, Arizona ("City") to provide for the annexation and development of certain territory to be annexed into the City of San Luis; and

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

Whereas, the parties to the Preannexation Development Agreement desire to enter into said agreement;

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 Preannexation Development Agreement between the City of San Luis, Arizona and San Luis Port II Industrial Park, L.L.C. as attached hereto as Exhibit "A", is hereby approved.

Section 2: That the appropriate City officials are hereby authorized and directed to enter into said agreement on behalf of the City and take any all actions as may be necessary to effectuate said agreement.

PASSED AND ADOPTED by the Mayor and Common Council of the City of San Luis, Arizona, this 27th day of April, 2011.

for Juan Carlos Escamilla, Mayor

ATTEST:

Sonia Cuello, City Clerk

APPROVED AS TO FORM:

Glenn Gimbut
City Attorney

PREANNEXATION
DEVELOPMENT AGREEMENT

ANNEXATION CASE NO. 2010-01

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into this 27th day of April, 2011 ("Effective Date"), by and between San Luis Port II Industrial Park LLC, 10602 Camino Del Sol, Yuma Arizona 85367 (the "Developer") and the City of San Luis, an Arizona municipal corporation (the "City"). This Agreement is entered into pursuant to City Resolution Number 936.

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 as well as pre-annexation development agreements to provide for development of property after its annexation;

B. WHEREAS, Developer will be the owner of land contiguous to the municipal limits of the City, and is surrounded on at least three sides by the City;

C. WHEREAS, the Developer desires to annex this property into the City and to establish certain terms and conditions regarding development of its property; and

D. WHEREAS, the City's governing body has authorized execution of this Agreement by Resolution No. 936, a draft of which is attached to this Agreement.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

ARTICLE 1. DEFINITIONS

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

1.1. "City" shall mean and refer to the City of San Luis, an Arizona municipal corporation, and any successor public body or entity.

1.2. "Developer" shall mean and refer to San Luis Port II Industrial Park LLC, an Arizona limited liability company, successor(s), or nominee.

1.3 "Improvements" shall mean and refer to all public improvements which may be constructed from time to time in and around the Property.

1.4 "Improvement Costs" shall mean and refer to all costs, expenses, fees and charges actually incurred and paid to contractors, architects, engineers, surveyors, third-party construction managers, governmental agencies and other third parties for materials, labor, design, engineering, surveying, land acquisition, site excavation and preparation, governmental permits, payment and performance bonds, and other costs and expenses reasonably necessary for the construction or installation of one or more Improvements. "Improvement Costs" shall not include any profit to or mark-up by any person or entity seeking payment under a buy-in or other payment agreement, or their affiliates, and any other costs or expenses not reasonably necessary for the construction or installation of the Improvements.

1.5 "Property" as used in this Agreement shall mean and refer to all of the real property which is shown in Exhibit A (Annexation Map) and legally described as:

S1/2 S1/2 SE1/4 of Section 11, Section 13 and Section 14, T 11 S, R 24 W, G.&S.R.B.&M. Yuma County Arizona.

1.6 "Street Standards" shall mean and refer to the street standards which govern the design and construction of the Improvements for public streets required under each subdivision plat approved for all or any portion of the Property, and shall be the street standards set forth in the City of San Luis subdivision ordinance in effect at the time the applicable subdivision plat is approved by City Council, subject to the following: (a) the subdivision ordinance in effect on the Effective Date is the City of San Luis Subdivision Ordinance, July 8, 2008 Edition and the Street Standards set forth therein shall govern the public street Improvements that are part of the public infrastructure requirements for the initial subdivision plat for the Property being processed concurrently with the Zoning Approvals (defined below); (b) the infrastructure requirements and total right-of-way for Avenue D, Avenue C, and County 25th Street shall be as provided in Section 3.2, Section 3.3, and Section 3.4, respectively, and any and all Street Standards applicable to such streets are hereby modified reflect the right-of-way widths and infrastructure requirements of such Sections; and (c) Developer is authorized to install flat curbs within the portions of the Property zoned as industrial, as provided in Section 3.11 hereof, and any and all Street Standards applicable to such curbs are hereby modified to be consistent with the provisions of Section 3.11.

ARTICLE 2. ANNEXATION; WAIVER

2.1 Proposition 207 Waiver. Developer hereby waives and releases City from any and all claims under Arizona Revised Statutes § 12-1134, et seq., including any right to compensation for reduction to the fair market value of the Property, as a result of the City's approval of the Annexation Ordinance (defined herein), the City's approval of the City ordinance granting the Zoning Approvals (defined herein) and enforcement of the conditions to such approval set forth in such zoning ordinance (provided that Developer agrees to the inclusion of such conditions in the zoning ordinance), and the City's approval of, and performance under, this Agreement. The

terms of this waiver shall run with the land and shall be binding upon all subsequent landowners and shall survive the expiration or earlier termination of this Agreement.

2.2 Annexation Petition. City, having held public meetings thereon, has filed in the office of the Recorder of Yuma County a blank petition, as required by A.R.S. § 9-471, setting forth a description and an accurate map of all the exterior boundaries of the Property (the "Annexation Petition"). After the Annexation Petition is consented to and signed by Developer, City shall comply with the requirements of A.R.S. § 9-471 and, if determined to be in the best interest of City, adopt an ordinance annexing the Property into the municipal boundaries of City ("Annexation Ordinance"). Notwithstanding the foregoing, the City agrees that Developer's consent to the Annexation Petition is expressly conditioned on the approval and entering into of this Agreement by City and the granting of the zoning approvals in the corresponding zoning case considered for approval by City Council immediately after approval of the Annexation Petition ("Zoning Approvals").

ARTICLE 3. PROVISIONS FOR WASTEWATER MANAGEMENT PLANS; OPTION TO PURCHASE; DEVELOPMENT OF PROPERTY; AND RIGHTS-OF-WAY

3.1 Duration of Development Agreement. The term of this Agreement shall commence on the Effective Date, and shall terminate on the date which is 30 years after the Effective Date. If the proceedings to annex the Property into the City have not been completed on or before December 15, 2011, or such later date as agreed to by City and Developer, the provisions of this Agreement shall be deemed to not have become operative and this Agreement shall terminate and have no further force or effect. If the Agreement is so terminated, Developer may record a document evidencing such termination in the land records of Yuma County.

3.2 Avenue D. Avenue D shall be a public street from County 24th Street to County 25th Street. Avenue D from the northern boundary of the Property to County 25th Street shall be a Major Collector street, with a total right-of-way of 80 feet along the alignment shown on Exhibit B. Within one-year after the Effective Date, provided that the Property's annexation into the City has been completed, Developer shall dedicate, through quit-claim deed or map of dedication, the portion of the Property east of Avenue D between County 24th Street and County 25th Street necessary to increase the right-of-way for that portion of Avenue D to 80 feet, provided that the total amount of such dedication shall not exceed a width of 34 feet. As part of the public improvement requirements for each Subdivision Plat approved for any portion of the Property that abuts Avenue D, Developer shall design, construct, and install the half-street Improvements for that portion of Avenue D included within such Subdivision Plat in accordance with the Street Standards, provided that Developer's obligation to design, construct or install any portion of Avenue D shall be limited to the portion of Avenue D which directly abuts the portion of the Property that Developer is then developing. Such public improvement requirements shall not include the relocation of all or any portion of the power poles of the Arizona Public Service Corporation (the "Power Poles"). City agrees that Developer shall have no obligations with respect to the Power Poles, including, without limitation no obligation to re-locate or underground the Power Poles, or locate new power poles in the same or a different location.

3.3 Avenue C. Avenue C shall be a public street from County 24th Street to County 25th Street. Avenue C shall be a Major Collector street, with a total right-of-way of 80 feet along its current section-line alignment. As part of the public improvement requirements for each Subdivision Plat approved for any portion of the Property that abuts Avenue C, Developer shall dedicate, through a subdivision plat dedication or map of dedication, the portion of such Property within the Subdivision Plat that is necessary to increase the half-street right-of-way for Avenue C, west from centerline, to 40 feet, provided that the total amount of such dedication shall not exceed 7 feet. As a further part of the public improvement requirements for each such Subdivision Plat, Developer shall design, construct, and install the half-street Improvements for that portion of Avenue C included within such Subdivision Plat in accordance with the Street Standards, provided that Developer's obligation to design, construct or install any portion of Avenue C shall be limited to the portion of Avenue C which directly abuts the portion of the Property that Developer is then developing.

3.4 County 25th Street. County 25th Street shall be a public street along its current section–line alignment, and shall be classified as a Minor Arterial with a total right-of-way of 100 feet. At the time of recordation of each Subdivision Plat approved for any portion of the Property that abuts County 25th Street, Developer shall dedicate, through a subdivision plat dedication or map of dedication, the portion of such Property necessary to increase the right-of-way for County 25th Street to 100 feet. As part of the public improvement requirements for each Subdivision Plat approved for any portion of the Property that abuts County 25th Street, Developer shall design, construct, and install the half-street Improvements for the portion of County 25th Street included within such Subdivision Plat in accordance with the Street Standards, provided that Developer's obligation to design, construct or install any portion of County 25th Street shall be limited to the portion of County 25th Street which directly abuts the portion of the Property that Developer is then developing. Notwithstanding the foregoing, City agrees that the public improvement requirements and City design standards require Developer to only dedicate the half-street right-of-way for County 25th Street. Developer's agreement to dedicate the full-street right-of-way has been made in consideration of the City's agreements, herein, including without limitation, the City's agreements set forth in Section 3.6.

3.5 Signalization at Avenue E and County 24th Street and at Avenue E and County 24 ½ Street. Those Improvements needed within the City right-of-way shall be at the cost of the City. Prior to signalization, the City agrees to place 4-way stop signs at the intersection of Avenue E and County 24th Street and/or County 24 ½ Street as conditions may warrant in the City's discretion. At such time as a traffic signal is warranted at the intersection of Avenue E and County 24th Street, Developer (or succeeding parties) shall participate in the cost of signalization equal to ¼ of the total cost. At such time as a traffic signal is warranted at the intersection of Avenue E and County 24 ½ Street Developer (or succeeding parties) shall participate in the cost of signalization equal to ¼ of the total cost.

3.6 Wastewater Management Plans and Access to Water and Wastewater Mains. The City hereby modifies the City of San Luis East Master Sewer Service Area Map to change the service boundary line of Service Area # 2 and Service Area # 3 as follows:

- The south half of Section 13, T 11 S, R 24 W, G. & S.R.B.&M. that is currently located on Service Area #3 will be incorporated into Service Area # 2 ("Area #2 Property");

- The north half of Section 14, T 11 S, R 24 W, G. & S.R.B. & M. that is currently located on Service Area #2 will be incorporated into Service Area #3 ("Area #3 Property").

After the Effective Date, Service Area #2 and Service Area #3 shall have the service boundary lines set forth on Exhibit C hereto. The City shall take all actions necessary to effectuate the change in the boundaries of the Service Areas described in this Section 3.6.

The City's current sewer lift station, located as depicted on Exhibit C, shall serve the Area #3 Property ("Area #3 Lift Station"). In consideration of the full-street dedication for County 25th Street and other Developer agreements set forth herein, the City shall allow the wastewater collection system for the Area #3 Property to connect to the Area #3 Lift Station. The City shall allow for such connection and the connection of the Area # 3 Property to the City's wastewater collection system without such connection being subject to any infrastructure reimbursement requirements, buy-in-fees, or any other fees or costs related to infrastructure costs for such wastewater collection system, including, without limitation the Area #3 Lift Station, save and except regular impact fees (defined under ARS § 9-463.05 as development fees). The City represents and warrants that the City owns the Area #3 Lift Station and has the authority, without further approval, to allow the Area #3 Property to be connected to the Area #3 Lift Station in accordance with the provisions of this Section 3.6.

Within one-year after the Effective Date, provided that the Property's annexation into the City has been completed, Developer shall convey by quit-claim deed the following described land ("Lift Station Land"):

> *That part of the Southeast Quarter of Section 11, Township 11 South, Range 24 West of the Gila and Salt River and Meridian, Yuma County, Arizona, more particularly described as follows:*
> *Beginning at the Southwest corner of the Southeast Quarter of Section 11,*
> ***Thence** N 00°26'29" Ea distance of 659.62 feet along the West line of the Southeast Quarter to a point;*
> ***Thence** S89031'30" Ea distance of 2,506.18 feet to **The True Point of Beginning;***
> ***Thence** continuing S89 31 '30"E a distance of 100.00 feet to a point;*
> ***Thence** S00027'38"W a distance of 100.00 feet to a paint;*
> ***Thence** N89031 '30"W a distance of 100.00 feet to a point;*
> ***Thence** NOo027'38"E a distance of 100.00 feet to **The True Point of Beginning;***
> *Containing 0.23 acres more or less.*

The fair market value of the Lift Station Land is hereby determined to be $75,000 per acre (the "Fair Market Value").

City shall cause the construction of the Sewer Lift Station for Service Area #2 in a manner that allows for Service Area #2 to receive wastewater collection services from the City. At the time of development, City shall connect the portion of the Property within Service Area #2 to the

City's wastewater collection system through the Sewer Lift Station for Service Area #2. City and Developer acknowledge that all of Service Area #2 shall be subject to a payment agreement for the total Improvement Costs for the construction of the Lift Station. City agrees that the Fair Market Value of the Lift Station Land shall be credited as a payment against the total amount owed by all or any portion of the Property under such payment agreement

- Developer shall have access to the water main located on County 24th Street, east of Ave. E, and may be able to tap into or otherwise use the main without having to pay, or otherwise be assessed, a special charge for the development and/or cost of construction of said main. The then current owner or developer of each portion of the Property being developed shall at all times pay all applicable regular impact fees (defined under ARS § 9-463.05 as development fees), utility fees, or building permit fees of the City.

- Developer shall have access to the sewer line located on Ave. E south of County 24th Street and may be able to tap into or otherwise use the sewer line without having to pay, or otherwise be assessed, a special charge for the development and/or cost of construction of said main. The then current owner or developer of each portion of the Property being developed shall at all times pay all applicable regular impact fees (defined under ARS § 9-463.05 as development fees), utility fees, or building permit fees of the City.

3.7 Public Safety Facilities. From undeveloped land on the parcel described on Exhibit D hereto (the "Additional Land"), Developer agrees to dedicate, to the City of San Luis, property in an amount not to exceed 5 acres, for only the construction and use by the City of a facility to be used for City governmental purposes (the "Government Facilities Land"). The Government Facilities Land shall be conveyed to City subject to deed restrictions which shall provide that the Government Facilities Land shall be only used by the City for the construction and use of a facility for City governmental purposes, and if (a) a City governmental facility is not constructed on the Governmental Facilities Land within 10-years from the date of the conveyance, or (b) the Government Facilities Land ceases to be used for a City governmental purpose, or (c) the City conveys, leases or otherwise transfers its ownership or possessory interest in the Government Facilities Land, then Developer shall have the right to cause title in the Government Facilities Land to revert back to Developer. City may designate, as the Government Facilities Land, a portion of the Additional Land which has a frontage on County 24th Street. The City shall assume any and all responsibility for environmental assessment and/or remediation, if needed or necessary. City agrees to exercise this designation on or before November 1, 2011.

The City shall allow all of the Additional Land (including the Government Facilities Land) to be connected to the City's water system and wastewater collection system. The connection of the Additional Land to the City's wastewater collection system shall be made through the main sewer line and not by connection to a Sewer Lift Station. At the time City develops the Government Facilities Land, City shall construct all infrastructure Improvements, at its own cost and expense, necessary for the connection of the Additional Land to the City's water system and wastewater collection system, provided that Developer shall dedicate to the City, without charge to the City, the public utility easement required for the installation of water and sewer

lines necessary for such connection. If Developer develops the Additional Land before development of the Government Facilities Land, Developer shall construct such infrastructure Improvements at its own cost and expense, provided that Developer's infrastructure requirements shall only require Developer to connect the Additional Land to the City's wastewater system through the main sewer line, and there shall be no requirement to install a Lift Station to serve the Additional Land.

3.8 Access on Avenue E. At the present time, access on Avenue E between the County 24th Street alignment and the County 25th Street alignment is restricted to every half-mile (County 24th Street, County 24-1/2 Street, and County 25th Street). At such time as additional access to any private property located on the west side of Avenue E is granted access on Avenue E, City agrees to use its best efforts to grant the same degree of access to the portion of the Property located on the east side of Avenue E between the two aforementioned alignments. It is understood that this subsection is conditioned upon the City's right, power, or authority to grant access. It is also understood that the promise to use its best efforts is not a promise of access.

3.9 Zoning. Developer shall have the right to apply for zoning changes, and as long as the proposed change in zoning is in conformance with the most current City of San Luis General Plan, City agrees that staff will recommend approval, subject to such conditions as may reasonably be deemed appropriate and are allowable under applicable law. City agrees that the Property may be developed in accordance with the zoning designation applicable to the Property, any site plans or subdivision plats for the Property approved by City through its normal and customary site plan or subdivision plat approval process (respectively, the "Site Plans" or the "Subdivision Plats"), and the provisions of this Agreement, and such right shall be vested as of the Effective Date for the term of this Agreement. City agrees that the Developer has the right to apply for rezoning for each portion of the Property without charge during the period beginning January 1, 2011 and ending on the date which is forty-eight months after the date on which the Annexation Ordinance becomes effective. During that forty-eight month period, the Developer agrees to pay for all legal publications including notice of Public Hearing(s) and the final publication of the Ordinance.

3.10 Avenue E streetscape. At the time of development of any portion of the Property that abuts Avenue E, the Developer agrees to install xeriscape landscaping in the parkway between the property line and the edge of the paved surface of the portion of Avenue E between (a) the mid-way point between County 25th Street and County 24 ½ Street (i.e., the County 24 ¾ Street alignment), and (b) the mid-way point between County 24 ½ Street and County 24th Street (i.e., the County 24 ¼ Street alignment). The number and type of landscaping shall be in accordance with the landscaping standards attached hereto as Exhibit E. The design of the landscaping, sidewalks, storm water retention/detention elements, and/or fencing shall be part of the subdivision improvement plans and drawings that will be subject to City approval pursuant to the City of San Luis subdivision ordinance then in effect at the time the applicable subdivision plat is approved by City Council. Stormwater facilities for the adjacent street may be incorporated within the landscaping. The City will maintain the landscaping and storm water retention upon acceptance of these Improvements. City agrees that Developer may take time to develop the landscaping and sidewalks, and may take up to three years to do so from the

date of the subdivision plat approval. In the event the other Improvements to the subdivision are developed ahead of said landscaping and sidewalks, the delay in sidewalk and landscaping development shall not delay acceptance by the City of the other Improvements. At all times, any adequate assurances posted for development of Improvements shall be adjusted to reflect the value of outstanding offsite Improvements and any warranty period pursuant to the Subdivision Ordinance of City.

3.11 Use of flat curbs. Developer may use flat curbs within the portions of the Property which are zoned as Industrial. Said flat curbs shall be constructed to City of San Luis Construction Standards (or other generally applicable engineering standards adopted by the City through its normal and customary adoption process), provided, that Developer shall not be required to install sidewalks within the portions of the Property in which Developer uses flat curbs. The Developer shall use vertical curbs within the portions of the Property which are zoned as Commercial. All curbs on Avenue E, Avenue D, Avenue C, County 24th Street, or County 25th Street shall be vertical curbs regardless of zoning.

3.12 Design, Construction and Dedication. Improvements shall be designed, constructed and dedicated in accordance with applicable laws, including, without limitation, the City's normal and customary plan submittal, review and approval processes, day-to-day inspection requirements, and insurance requirements. When the Improvements, or a discrete portion thereof, are completed, then upon written request of City or Developer, Developer shall dedicate and City shall accept such Improvements. City shall grant all rights, licenses, easements, and rights of entry necessary to permit Developer to construct the Improvements within the public rights-of-way.

ARTICLE 4. INDEMNIFICATION

4.1 Developer 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 expense), relating to, arising out of, resulting from the Developer's negligent acts or omissions or intentional torts which relate to Developer's performance under this Agreement, including but not limited to work or services provided in the performance of this Agreement by Developer's subcontractors or any one directly or indirectly employed by or contracting with the Developer or subcontractor or by anyone for whose acts Developer may be liable. Notwithstanding the foregoing, the provisions of this Section 4.1 do not extend to any liability, claims, damages, losses or expenses which result from the negligent acts or omissions, or intentional torts of the City, for which the City agrees to indemnify and hold harmless Developer, its officers, directors, partners, shareholders, managers, members and employees for liability from and against claims, damages, losses and expenses of any nature whatsoever (including but not limited to reasonable attorney expense).

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, Developer (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 Developer, or if covered by insurance, the insurer, all of which must be approved by City, which approval will not be unreasonably withheld, conditioned 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 if Developer neglects or refuses to provide an adequate defense, and the Developer 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, conditioned or delayed. If Developer neglects or refuses to defend any of the Indemnified Group for a claim covered by the indemnity set forth in Section 4.1, any recovery or judgment against the Indemnified Group for a claim covered by such indemnity shall conclusively establish the amount of Developer's liability to the Indemnified Group in connection with such recovery. If the City desires to settle any claim covered by the indemnity set forth in Section 4.1 for which Developer neglects or refuses to defend, the City shall be entitled to settle such claim in good faith and Developer shall be liable for the amount of such settlement and all expenses in connection with such settlement. Any dispute between the parties regarding whether or not a claim is covered by the indemnity set forth in Section 4.1, or whether Developer has neglected or refused to provide a defense, shall be resolved in accordance with the provisions of Section 5.2.

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

ARTICLE 5. MEDIATION AND DEFAULT

5.1 Representatives. To further the cooperation of the parties in implementing this Agreement, the City and Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Developer. The initial representative for the City (the "City Representative") shall be the City Manager and the initial representative for the Developer shall be its project manager, as identified by the Developer 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.

5.2 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 nonbonding mediation before commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by Developer and the City. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, then within three (3) days thereafter, the City and the Developer shall request the presiding judge of the Superior Court in and for the County of Yuma, State of Arizona, to appoint a mediator from a list

of mediators maintained by the Arizona Municipal Risk Retention Pool. The cost of any such mediation shall be divided equally between the City and Developer. The results of the mediation shall be nonbinding on the parties, and any party shall be free to initiate litigation subsequent to the moratorium.

5.3 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, termination. specific performance, and/or 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, at the rate of 10% per annum, 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 6. CONFLICT OF INTEREST; REPRESENTATIVES NOT INDIVIDUALLY LIABLE.

6.1 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 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.

6.2 No Personal Liability. No member, official or employee of the City shall be personally liable to Developer, 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 Developer or its successor or assign, or (c) pursuant to any obligation of the City under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Developer under this Agreement shall be limited solely to the assets of Developer and shall not extend to or be enforceable against: (i) the individual assets of any of the individuals or entities who are shareholders, members, managers constituent partners, officers or directors of the general partners or members of Developer; (ii) the shareholders, members or managers or constituent partners of Developer; or (iii) officers of Developer.

ARTICLE 7. MISCELLANOUS PROVISIONS

7.1 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 Administrator P.O. Box 1170 1090 Union Street San Luis, AZ 85349
If to the Developer	Manager San Luis Port II Industrial Park LLC 10602 Camino Del Sol Yuma AZ 85367

or 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.

7.2 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.

7.3 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.

7.4 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 Developer 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 Developer 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 Developer represents to the City that by entering into this Agreement, the Developer has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

7.5 Entire Agreement. This Agreement, including the Exhibits hereto, which are incorporated herein by this reference, constitutes the entire agreement between the parties. This provision applies only to the entirety of this Agreement only; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this provision has no effect on them.

7.6 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 successor in interest or assigns. The City shall record the amendment or cancellation in the official records of the Yuma County Recorder.

7.7 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.

7.8 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.

7.9 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 Developer execute such agreement amendment or cancellation, as required by A.R.S. § 9-500.05.

7.10 Attorney's 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 attorney's fees and court costs.

7.11 Notice of Conveyance or Assignment. The Developer 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. Developer may assign all or any portion of its rights hereunder to any one or more persons or entities, on such terms and conditions as Developer may deem appropriate, provided, however, that Developer may not convey all or any portion of its rights hereunder unless the corresponding obligations of the Developer are assumed by the assignee of Developer's rights. Notice of the assignment and assumption of Developer's obligations shall be reflected in a document that shall be executed by Developer and such assignee and recorded by Developer in the records of Yuma County, Arizona. Upon the recordation of such document, Developer will be released from the obligations assumed by the assignee. The burdens of this Agreement bind and the benefits of this Agreement inure to the parties hereto and their successors in interest and assigns as provided in A.R.S. § 9-500.05.D

7.12 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.

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

7.14 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 Developer, 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 Developer or successor, or under any obligation under the terms of this Agreement.

7.15 Sudan/Iran Investments and Business Operations. By entering into this agreement, Developer certifies that it does not have scrutinized business operations in Iran or Sudan as those terms are defined in A.R.S. §35-391 et seq. and §35-393 et seq.

7.16 Employment Eligibility. Developer hereby warrants 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 this Agreement. City retains the legal right to inspect the papers of Developer to ensure that Developer is compliant with this warranty.

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

By: for Mayor

THE DEVELOPER,
San Luis Port II Industrial Park LLC

By: Elizabeth A. Carpenter
Its: ~~Manager~~ Member

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this 27th day of April, 2011, by Juan Carlos Escamilla, Mayor of the City of San Luis, Arizona a municipal corporation.

Melissa Lopez
Notary Public

My Commission Expires: 5/10/2014

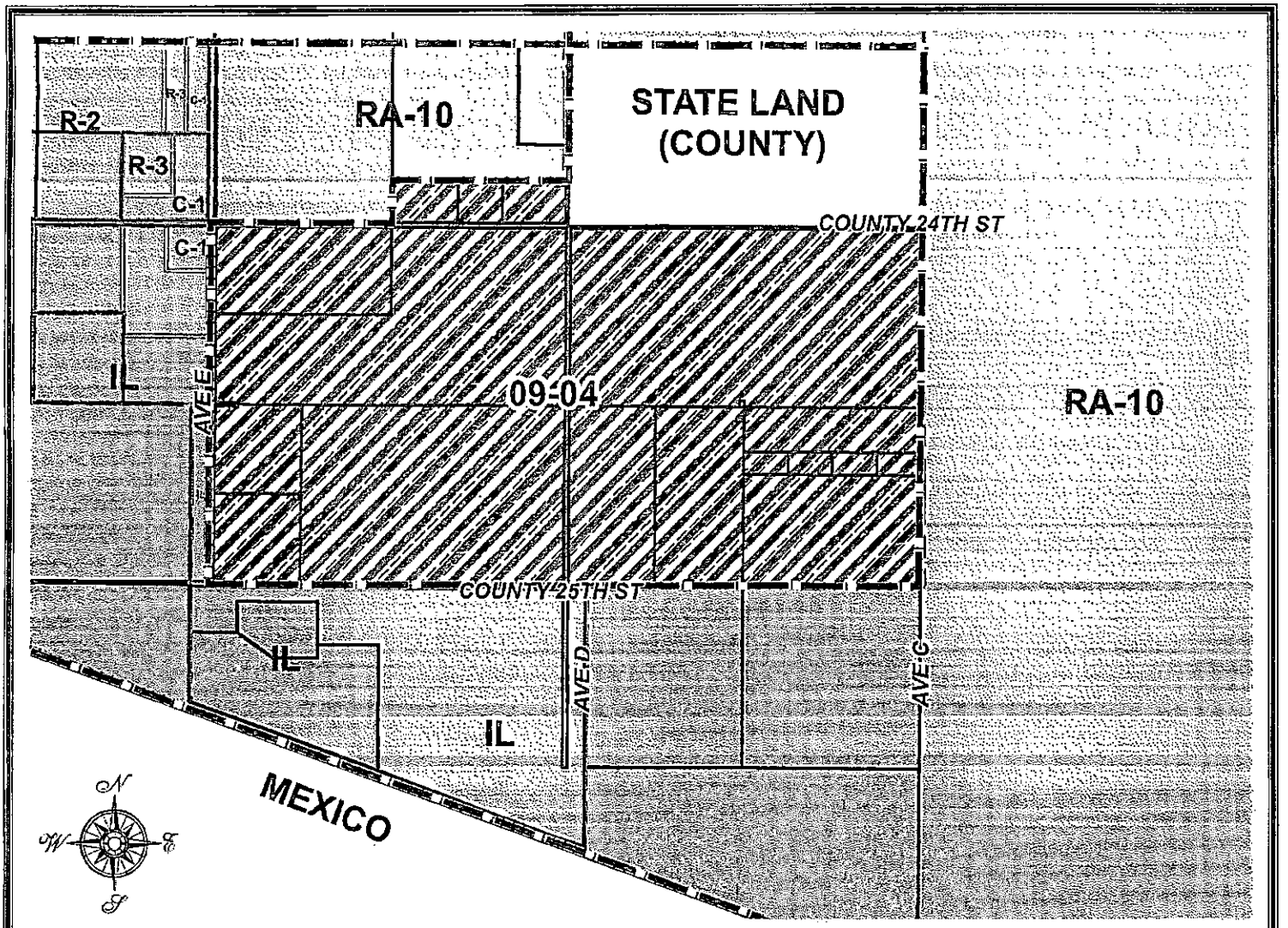
STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this 24th day of August, 2011, by Elizabeth Carpenter, ~~Manager~~ Member of San Luis Port II Industrial Park LLC, an Arizona limited liability company.

Notary Public

My Commission Expires: 3/1/2014

RAMINA ESHAYA
Notary Public - Arizona
Yuma County
Commission # 259001
My Commission Expires
March 1, 2014



Annexion #:
10-01

City of San Luis, Arizona

CERTIFICATION OF MAP
MAP OF AREA TO BE ANNEXED

In Addition to the territory shown on this map, striped in grey, the proposed annexation includes any and all county right-of-way and roadways with not taxable value that are withing or contiguous to the exterior boundaries of striped area and said right of way and roadways are part of the territory proposed to be annexed and will be included in any ordinance of annexation adopted as a result of this petition.

I, Juan Carlos Escamilla, Mayor of the City of San Luis, Arizona, do hereby certify that the foregoing map is a true and correct map of the territory annexed under and by virtue of the petition of the real and personal property owners in the said territory and by the Ordinance No. ____, annexing the territory described in Ordinance No.____, and as shown on said map as a part of the territory to be included withing the corporate limitsof the City of San Luis, Arizona.

_____ _____
City Clerk Mayor

Legend

PROPOSED ANNEXATION

EXISTING CITY LIMITS

CITY OF SAN LUIS

REVIEWED BY _____

Prepared by:*City of San Luis GIS Division*
GISUSER@Cityofsanluis.org

EXHIBIT "C"

CITY OF SAN LUIS NEW SEWER SERVICE AREA #2 & #3 BOUNDARY LINE

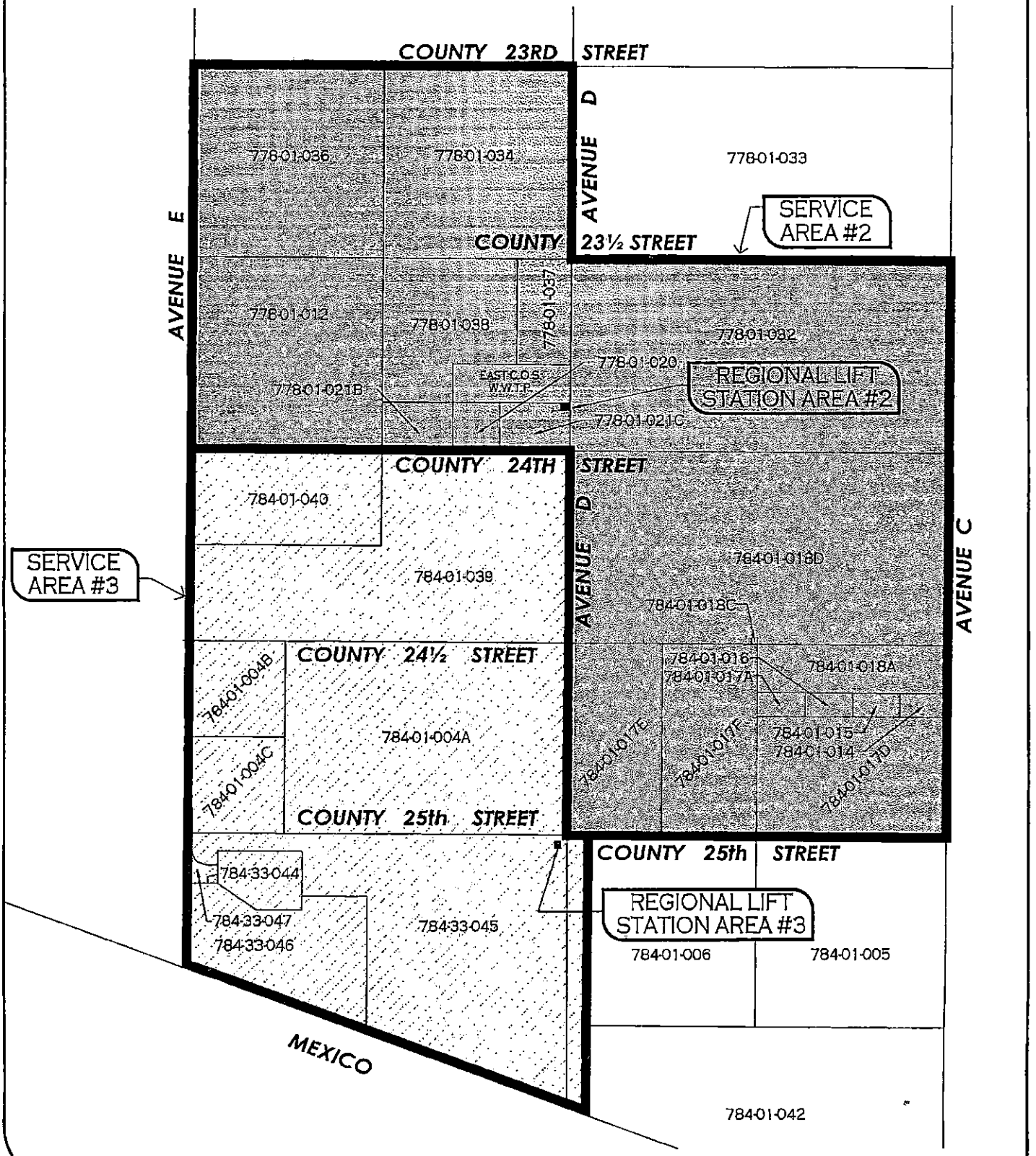


EXHIBIT "D"

CITY OF SAN LUIS PUBLIC SAFETY FACILITIES.

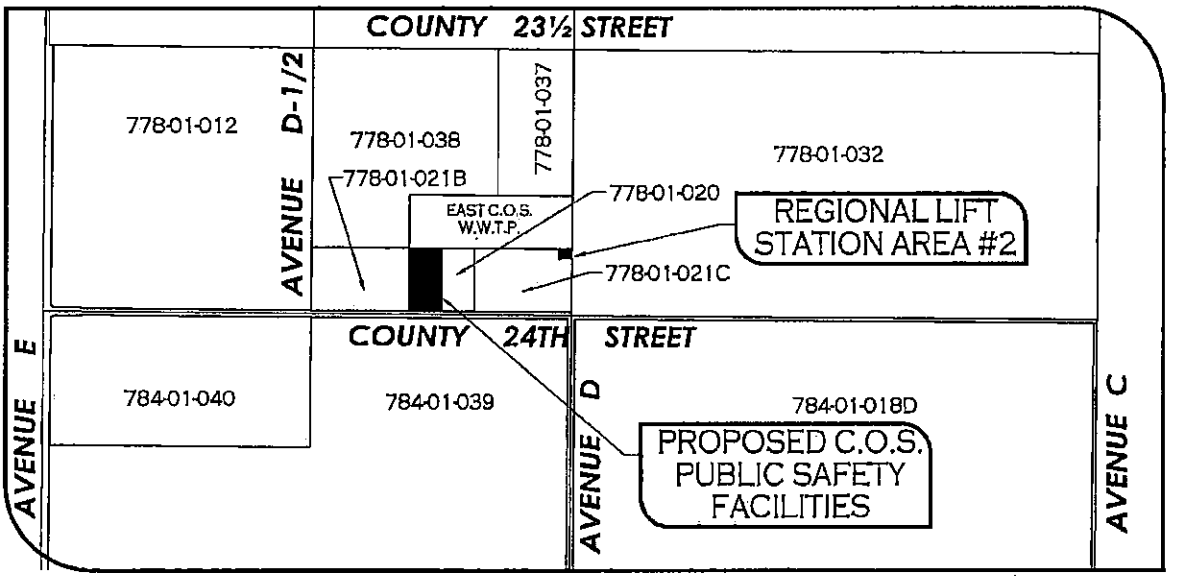
LEGAL DESCRIPTION

The East Half (E ½), of the Southeast Quarter (SE ¼),of the Southwest Quarter(SW ¼), of the Southeast Quarter (SE ¼) of Section 11, Township 11 South, Range 24 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona.

Except the south 33.00 feet.

Subject to all easements and right of ways apparent or record.

Containing 5.0 acres gross more or less



LOCATION MAP