



# *Resolution*

## **NO. 1002**

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AUTHORIZING A TEMPORARY USE PERMIT (TUP) NO. 13-07-34-L1755 AUTHORIZATION FOR JUAN SANCHEZ BOULEVARD PAVEMENT PRESERVATION PROJECT WITHIN THE BUREAU OF RECLAMATION'S FIVE MILE PROTECTIVE AND REGULATORY PUMPING UNIT BOUNDARY IN YUMA COUNTY.**

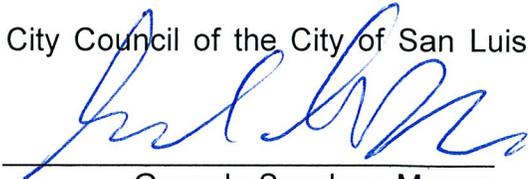
WHEREAS, the City of San Luis seeks a Temporary Use Permit to perform operations related to a two inch (2") asphalt overlay on Juan Sanchez Boulevard for approximately two (2) miles between Avenue H and Avenue F, within the Bureau of Reclamation's Five Mile Protective and Regulatory Pumping Unit Boundary in Yuma County, Arizona; and

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of San Luis, State of Arizona, as follows:

Section 1: The Temporary Use Permit No. 13-07-34-L1755, as attached hereto is hereby approved.

Section 2: That John Starkey, Director of Public Works, is hereby authorized and directed to enter into said Temporary Use Permit on behalf of the City and take any and all actions as may be necessary to effectuate said agreement.

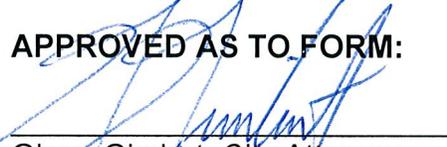
**PASSED AND ADOPTED** by the Mayor and City Council of the City of San Luis, Arizona, this 10<sup>th</sup> day of April, 2013.

  
Gerardo Sanchez, Mayor

**ATTEST:**

  
Sonia Cuello, City Clerk

**APPROVED AS TO FORM:**

  
Glenn Gimbut, City Attorney

**ORIGINAL**

Contract No. 13-07-34-L1755

1  
2  
3  
4  
5 UNITED STATES  
6 DEPARTMENT OF THE INTERIOR  
7 BUREAU OF RECLAMATION  
8 LOWER COLORADO REGION  
9 YUMA AREA OFFICE  
10 YUMA, ARIZONA

11  
12 COLORADO RIVER BASIN SALINITY CONTROL PROJECT,  
13 PROTECTIVE AND REGULATORY PUMPING UNIT, TITLE I DIVISION,  
14 FIVE MILE ZONE,  
15 ARIZONA

16  
17 TEMPORARY USE PERMIT  
18  
19

20 This Temporary Use Permit (TUP), made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, pursuant to  
21 the provisions of the Reclamation Act of June 17, 1902 (32 Stat. 388); the Reclamation Project  
22 Act of August 4, 1939 (53 Stat. 1187), as amended August 18, 1950 (64 Stat. 463); and acts  
23 amendatory thereof or supplementary thereto; and provisions of 43 CFR § 429, between the  
24 United States of America, acting through the Bureau of Reclamation, hereinafter referred to as  
25 “Reclamation,” and the City of San Luis, hereinafter referred to as the “Permittee.”  
26

27 The Permittee seeks permission from Reclamation to perform a pavement preservation project  
28 (Project), two (2) inch asphalt overlay, on Juan Sanchez Boulevard, approximately two (2) miles  
29 between Avenue H and Avenue F, within Reclamation’s Five Mile Protective and Regulatory  
30 Pumping Unit Boundary (Five Mile Zone) in Yuma County, Arizona and within the City of San  
31 Luis, Arizona.

32  
33 Subject to the following stipulations, Reclamation grants the Permittee and/or its authorized  
34 agents or representatives (Permittee), the permission sought as it is compatible with the purposes  
35 for which Reclamation administers the lands associated with the temporary use area. Certain  
36 lands within the Project area are administered by Reclamation, for the purposes of the feature of  
37 the Colorado River Basin Salinity Control Project, Protective and Regulatory Pumping Unit,  
38 Title I Division, Five Mile Zone, Arizona. The temporary use areas are located within portions  
39 of:  
40

41 Gila and Salt River Meridian, Arizona  
42 sections 4, 5, 8, and 9, T. 11 S., R. 24 W.

43  
44 hereinafter referred to as the "Permit Area," and are generally described and depicted by  
45 Exhibit A, which is attached hereto and by this reference made a part hereof.

46  
47 By accepting and signing this TUP, and by using the Permit Area described herein, Permittee  
48 agrees to be bound by the stipulations listed below.

49  
50 1. All Permit Area use activities shall be performed in compliance with all applicable Federal,  
51 State, and local laws and regulations.

52  
53 2. All Permit Area use activities shall be performed within the above-referenced legal  
54 description as depicted on Exhibit A, and within Yuma County's existing sixty six (66) foot  
55 roadway right-of-way (thirty three [33] feet on each side of the centerline of the roadway) for  
56 Juan Sanchez Boulevard as issued by the Bureau of Land Management under Serial  
57 Number A-6389.

58  
59 3. The Permittee hereby agrees to indemnify and hold harmless the United States, its employees,  
60 agents, and assigns from any loss or damage and from any liability on account of personal injury,  
61 property damage, or claims for personal injury or death arising out of the Permittee's activities  
62 under this TUP. Additionally, except for acts of negligence, the Permittee releases the United  
63 States and/or Reclamation, its/their officers, employees, successors and assigns from any and all  
64 liability for damage arising from injury to persons or damage to structures, equipment,  
65 improvements or works of the Permittee resulting from the construction, operation or  
66 maintenance of any of the works of the United States and/or Reclamation. Provided, however,  
67 that nothing contained in this clause shall be deemed to modify or limit any liability which may  
68 be imposed by the Federal Tort Claims Act, 28 U.S.C. § 2617, et ~cq. (1970).

69  
70 4. The Permittee shall protect any and all existing Reclamation facilities in the Permit Area.

71  
72 5. The Permittee shall be aware that the Project is located adjacent to Flat-Tailed Horned Lizard  
73 Habitat. Avoidance and minimization measures shall be implemented to avoid impacting  
74 adjacent habitat.

75  
76 6. The Permittee shall be aware Reclamation has concern over the Flat-Tailed Horned Lizard  
77 impacts; any action should follow Reclamation's Flat-Tailed Horned Lizard Rangewide  
78 Management Plan Procedures, described and depicted by Exhibit B, which is attached hereto and  
79 by this reference made a part hereof.

80  
81 7. The Permittee shall ensure Arizona Department of Transportation's (ADOT) mitigation  
82 measures are adhered to. The below listed mitigation measures, as outlined in ADOT's  
83 Environmental Planning Group Memorandum, are not subject to change without prior written

- 84 approval from the Federal Highway Administration.  
85
- 86 a. If milling and paving occurs between April and September, a Biological  
87 Monitor will be required when air temperatures are between 77 and 98  
88 Degrees Fahrenheit.  
89
- 90 b. If milling and paving occurs between October and March, a Biological  
91 Monitor will not be required.  
92
- 93 c. The roadway surface, preceding the milling machine, shall be kept sufficiently  
94 wet so as to prevent the generation of any visible fugitive dust particles, but  
95 not so wet as to cause excess run-off from the roadway surface onto the  
96 roadway shoulder.  
97
- 98 8. The Permittee shall be aware that Reclamation has three (3) deep pilot wells, in the area of  
99 the Project, that are used for regular groundwater monitoring. The three (3) deep pilot wells are  
100 described and depicted by Exhibit C, which is attached hereto and by this reference made a part  
101 hereof.  
102
- 103 9. The Permittee shall ensure Reclamation has continued access to the three (3) deep pilot wells  
104 during roadway maintenance activities.  
105
- 106 10. The Permittee shall ensure the three (3) deep pilot wells are protected from any physical  
107 damage during roadway maintenance activities. If a well is damaged during roadway  
108 maintenance activities, Permittee shall provide notice to Reclamation's Technical Support  
109 Office, Water Systems Engineering Group Manager, at telephone No. 928-343-8100 within ten  
110 (10) working days of the incident.  
111
- 112 11. The Permittee shall be aware that Reclamation has survey markers/brass caps located on the  
113 south side of Juan Sanchez Boulevard. Reclamation flagged a brass capped survey boundary  
114 marker, within the Project area, to make it visible so as to avoid contact and/or damage.  
115
- 116 12. The Permittee will be liable for any costs associated with repairs of Reclamation's facilities,  
117 if damaged, as a result of the roadway maintenance activities.  
118
- 119 13. The Permittee must consult with Reclamation's Resource Management Office,  
120 Environmental Planning and Compliance Group, at telephone No. 928-343-8100, prior to any  
121 ground disturbance activities outside of Yuma County's existing sixty six (66) foot roadway  
122 right-of-way, for further environmental consultation and compensation.  
123

- 124 14. The Permittee must provide a schedule to Reclamation within seventy-two (72) hours of all  
125 roadway maintenance activities within the Permit Area. Said seventy-two (72) hour notice shall  
126 be provided to Reclamation's Technical Support Office, Construction Services Group Manager,  
127 at telephone No. 928-343-8100 so that a Reclamation Inspector can be on-site during temporary  
128 use activities.  
129
- 130 15. Within ninety (90) days of the completion of said Project, the Permittee shall furnish  
131 Reclamation with as-built drawings depicting the location of said two (2) inch asphalt overlay, as  
132 installed.  
133
- 134 16. The Permit Area shall be maintained in a sanitary condition at all times. All trash and debris  
135 shall be removed upon leaving the Permit Area each day it is used by the Permittee.  
136
- 137 17. The Permittee shall be responsible for compliance with all applicable dust abatement and air  
138 quality standards in the Permit Area.  
139
- 140 18. The Permittee shall immediately provide a verbal notification to Reclamation of the  
141 discovery of any and all antiquities or other objects of archaeological, cultural, historic or  
142 scientific interest on Reclamation lands. The Permittee shall follow up with a written report of  
143 their finding(s) to Reclamation within forty-eight (48) hours. Objects under consideration  
144 include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects and  
145 artifacts discovered as a result of activities authorized under this Permit. The Permittee shall  
146 immediately cease the activity in the area of the discovery, make a reasonable effort to protect  
147 such discovery and wait for written approval from Reclamation before resuming the activity.  
148 Protective and mitigative measures specified by Reclamation shall be the responsibility of the  
149 Permittee.  
150
- 151 19. The Permittee shall immediately notify Reclamation's Resource Management Office,  
152 Environmental Planning and Compliance Group Manager, at telephone No. 928-343-8100, of  
153 any accidental release of hazardous substances, toxic substances, or hazardous waste on or near  
154 the Permit Area.  
155
- 156 20. All on-site personnel in the Permit Area shall be personally instructed by Permittee  
157 regarding the above-listed stipulations.  
158
- 159 21. The Permittee shall restore and repair, if necessary, the Permit Area to its original condition  
160 or improved, and in a manner satisfactory to Reclamation.  
161
- 162 22. This TUP shall not be construed as a grant of any permanent right-of-way interest or as  
163 abandonment by the United States of any rights, including but not limited to, use and occupancy  
164 of the Permit Area.

- 165 23. This TUP is temporary and is for the sole purpose of performing roadway maintenance  
166 activities permitted herein.  
167
- 168 24. The Permittee shall not use the Permit Area or permit the use thereof for any purpose except  
169 as set forth herein.  
170
- 171 25. The Permittee agrees to include the provisions contained in this TUP in any subcontract or  
172 third party contract it may enter into, pursuant to this TUP.  
173
- 174 26. The Permittee shall be responsible for all work completed by their authorized agents or  
175 representatives within the Permit Area.  
176
- 177 27. This TUP shall only become effective upon execution by Reclamation, and shall terminate  
178 on June 31, 2013.

The undersigned parties agree to the terms and conditions set forth in this Temporary Use Permit.

THE UNITED STATES OF AMERICA

By: \_\_\_\_\_  
Christopher M. Wallis, Chief  
Resource Management Office  
Yuma Area Office  
Lower Colorado Region  
Bureau of Reclamation

Date: \_\_\_\_\_

ACCEPTANCE:

CITY OF SAN LUIS

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

NOTARIAL ACKNOWLEDGMENT

State of Arizona)

County of Yuma)

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, \_\_\_\_\_, a Notary Public in and for said  
 County and State personally appeared \_\_\_\_\_, \_\_\_\_\_ of  
Name Title  
City of San Luis (City), known to me to be the person described in the foregoing instrument, and  
 acknowledged to me that \_\_\_\_\_ executed the same on behalf of City in the capacity therein stated  
 and for the purpose therein contained.

(Notary Seal)

\_\_\_\_\_  
 Notary Public

<b>Description of document this notarial certificate is being attached to:</b>	
Type/Title	Temporary Use Permit, Contract No. 13-07-34-L1755
Date of Document	
Number of Pages	7 and Exhibits A, B, and C
Additional Signers (other than those named in the notarial certificate)	Christopher M. Wallis, Chief Resource Management Office, Bureau of Reclamation

Contract No. 13-07-34-L1755