



Resolution

NO. 1026

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND THE STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE ACQUISITION OF FEDERAL FUNDS FOR THE DESIGN, AWARD, AND ADMINISTER CONSTRUCTION OF ROADWAY IMPROVEMENT IN DOWNTOWN SAN LUIS, ARIZONA.

Whereas, the City of San Luis desires to enter into an intergovernmental agreement with the State of Arizona Department of Transportation for the design and construction of downtown street improvements.

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 Intergovernmental Agreement, as attached here to 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 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 11th day of December, 2013.

Gerardo Sánchez, Mayor

ATTEST:

Sonia Cuello, City Clerk

APPROVED AS TO FORM:

Glenn Gimbut, City Attorney

ADOT File No.: IGA/JPA 11-111-I
ADOT CAR No.: 13-0000320- I
AG Contract No.: P001 2012 000337
Project: Design, Construct, Turn back
Section: US 95/US 95T/Main Street
Federal-aid No.: 095-A(204)A
ADOT Project No.: H8003 01C
Budget Source: 13912/10012

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SAN LUIS

THIS AGREEMENT is entered into this date Please Do Not Enter , 2013, pursuant to the Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SAN LUIS, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement on behalf of the City.

3. The State will design, advertise, award and administer construction of roadway improvements along the portions of US 95 (Main Street), US 95T (1st Avenue and D Street), Archibald Street and Urtuzuastegui Street, as depicted in Exhibit A, herein after referred to as the 'Project'. Upon completion of the Project, the City will accept ownership jurisdiction and maintenance responsibilities for the portion of US 95 from the north boundary line of the United States Customs Reserve to STA 35+00 and all of US 95T from Urtuzuastegui Street to Main Street as depicted in Exhibit C. The State will request authorization of up to \$2,100,000.00 of federal funds for the design and development costs and up to \$5,532,000.00 of Federal funds for construction and construction administration of the Project. The City agrees to waive the requirements of Arizona Revised Statutes Section § 28-7209 and will maintain the sections of right-of-way mentioned above in perpetuity.

4. The Parties hereto agree to and acknowledge the following conditions: the Parties shall perform their responsibilities consistent with this Agreement, and any change or modification to the Project will only occur with the mutual written consent of both Parties.

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

II. SCOPE OF WORK

1. The State will:

a. Prepare and provide design plans, specifications environmental clearance and other such documents and services required for construction of the Project. Such documents may consist of, but are not specifically limited to, environmental documents; the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities and such other related tasks essential to the achievement of the objectives of this Agreement.

b. Submit all documentation required to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that funding be approved for design, construction and construction administration. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project plans and specifications.

c. Upon authorization from FHWA, enter into contracts(s) with a firm(s) to whom the award is made for the design and construction of the Project. Be responsible for contractor claims for additional compensation caused by or attributable to the State.

d. Upon completion of the Project, perform the final inspection and notify the City in writing that the Project has been constructed in accordance with the Project documents and has been satisfactorily completed.

e. Prior to start of construction, take into the State Highway System by means of State Transportation Board resolution, City right of way associated with those sections of Urtuzuastegui Street, Archibald Street, B Street, C Street, D Street, E Street, F Street and First Street, necessary for construction of the Project, as shown in Exhibit B.

f. Upon completion of the Project and approval by resolution of the State's Transportation Board, abandon and transfer ownership jurisdiction and maintenance responsibilities for the portions of US 95 from the north boundary line of the United States Customs Reserve to STA 35+00 and all of US 95T from Urtuzuastegui Street to Main Street as depicted in Exhibit C, and those City streets previously taken into the State Highway System for Project construction, as shown in Exhibit B.

2. The City will:

a. Review the design documents required for construction of the Project and provide comments to the State as appropriate.

b. In the event of unforeseen conditions or circumstances increases in the cost of said work necessitated by a change in the Project's Scope of Work, such additional costs shall require prior approval of both parties. All costs attributable to any engineering change orders requested by the City shall be the sole responsibility of the City. Such costs shall be paid by the City within thirty (30) days of receipt of an invoice from the State.

c. Hereby grant the State, its agents and/or contractors, without cost, the right to enter City Rights-of-Way, as required, to conduct construction activities associated with curb, gutter, sidewalk, paving, storm drain system tie-ins, etc. on side streets not taken into the State Highway System.

d. Upon completion of the Project and approval by resolution of the State's Transportation Board, accept ownership jurisdiction and maintenance responsibilities for the portions of US 95 from the north boundary line of the United States Customs Reserve to STA 35+00 and all of US 95T from Urtuzuastegui Street to Main Street as depicted in Exhibit C., and those City streets previously taken into the State Highway System for Project construction, as shown in Exhibit B and Exhibit C.

e. Waive the requirements of Arizona Revised Statutes Section § 28-7209.

f. As a donation to the project hereby agree to grant the State at no cost new rights of way required for the project, as depicted in project design and right of way plans, across City owned lands located at the NE corner of the intersection of Main Street (US95) and D Street, and along the north boundary of Friendship Park adjacent to Urtuzuastegui Street between Archibald Street and Main Street. It is understood that the Bureau of Land Management must concur with this action between the City and ADOT across the Friendship Park parcel prior to the execution of documents. This is necessary due to use restrictions in the original patent number 02-74-0002 by BLM. (See BLM letter dated 2/11/2013 to the City, attached as Exhibit D.) It is also understood that the Parties will gain the concurrence of the Bureau of Land Management for the reuse of the parking lot at D Street and Main Street in the event that this is legally necessary.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements provided herein. However, any provisions for maintenance, provided by the respective party shall be perpetual. This Agreement may be cancelled at any time prior to award of a Project construction contract, upon thirty (30) days written notice to either party. It is understood and agreed that, in the event the City cancels this Agreement, the State shall in no way be obligated to maintain said Project.

2. The parties to this Agreement agree that the State of Arizona shall be indemnified and held harmless by the City for the vicarious liability of the State as a result of entering into this Agreement. Each party to this contract is responsible for its own negligence.

3. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

4. The cost of the project under this Agreement includes applicable indirect costs approved by the Federal Highway Administration (FHWA).

5. The City and the State warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the City will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

6. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

7. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

8. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 09-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds: Every payment obligation of either the State or the City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by either the State or the City at the end of the period for which the funds are available. No liability shall accrue to either the State or the City in the event this provision is exercised, and neither the State nor the City shall be obligated or liable for any future payments as a result of termination under this paragraph.

10. In the event of any controversy which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

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

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

City of San Luis
Attn: John Starkey
1090 E. Union Street
San Luis, Arizona 85349
(928) 341-8577

12. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401.

13. The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

14. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF SAN LUIS

By 

GERARDO SANCHEZ
Mayor

STATE OF ARIZONA

Department of Transportation

By _____
DALLAS HAMMIT, P.E.
Senior Deputy State Engineer, Development

ATTEST:

By 

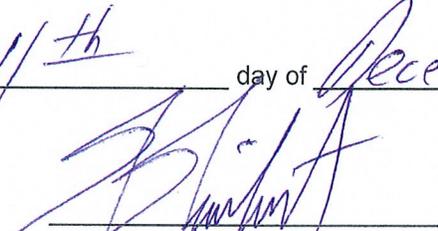
SÓNIA CUELLO
Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF SAN LUIS

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF SAN LUIS, an Agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 11th day of December, 2013.



City Attorney