



Resolution

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

No. 1188

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND GADSDEN ELEMENTARY SCHOOL DISTRICT NO. 32 REGARDING IMPROVEMENTS TO CONFORM TO TRAFFIC STUDY

WHEREAS, the City of San Luis desires to enter into an intergovernmental agreement with Gadsden Elementary School District No. 32 for the construction of certain infrastructure to conform to a traffic study performed in conjunction with the development of new classrooms and an administration complex on the campus of Ed Pastor Elementary School;

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 hereto as Exhibit "A", is hereby ratified and 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 City Council of the City of San Luis, Arizona, this 12th day of April 2017.


Gerardo Sanchez, Mayor

ATTEST:


Sonia Cornelio, City Clerk

APPROVED AS TO FORM:


Kay Macuil
City Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF SAN LUIS, ARIZONA
AND GADSDEN ELEMENTARY SCHOOL DISTRICT #32 REGARDING
IMPROVEMENTS TO CONFORM TO TRAFFIC STUDY FOR DEVELOPMENT OF
NEW CLASSROOMS AND NEW ADMINISTRATION BUILDING**

THIS AGREEMENT, made and entered into this 12th day of April, 2017 by and between the CITY OF SAN LUIS, a municipal corporation of the State of Arizona, hereinafter referred to as "CITY" and the GADSDEN ELEMENTARY SCHOOL DISTRICT #32, hereinafter referred to as "DISTRICT"; the CITY and DISTRICT hereinafter collectively referred to as the "PARTIES."

WHEREAS, the CITY is authorized by A.R.S. §11-952 to enter into this AGREEMENT;
and

WHEREAS, the DISTRICT is authorized by A.R.S. §11-952 to enter into this AGREEMENT; and

WHEREAS, pursuant to Section 11-951 *et seq.*, cities and Arizona Union School Districts (districts) may enter into AGREEMENTS for the cooperative development, design, construction, maintenance, and operation of essential infrastructure, and

WHEREAS; the DISTRICT is constructing additional classrooms for Ed Pastor Elementary School and a new District Administration building and as part of those improvements committed to performing a traffic study and constructing such improvements as required by said traffic study; and

WHEREAS, said traffic study called for the installation of a traffic light at the intersection of Sixth Avenue and Juan Sanchez Blvd. and a deceleration and stacking lane on the east side of Sixth Ave. for Ed Pastor Elementary School (the "infrastructure");

WHEREAS, it is the desire of the PARTIES to act collaboratively in developing the mutually needed infrastructure called for by said traffic study;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises, benefits and AGREEMENTS of the PARTIES herein contained and as more fully explained below, it is agreed as follows:

Section 1. Purpose

The purpose of this AGREEMENT is to establish the rights, duties and responsibilities of the PARTIES for the development, and construction of the above-referenced infrastructure ("infrastructure") and the collaboration of the PARTIES for the development and construction thereof.

Section 2. Term

This AGREEMENT will become effective as of the date indicated above, and will terminate five (5) years thereafter, or at such time as the infrastructure ("infrastructure") is developed and accepted by CITY.

Section 3. Infrastructure

A. Traffic Light

The PARTIES agree that a traffic control device, i.e. a traffic light, shall be constructed at the intersection of Sixth Ave. and Juan Sanchez Blvd. in San Luis, Arizona and the PARTIES shall share in the cost. The CITY shall cause the design, construction, and installation of the traffic control device during fiscal year 2018/2019 and shall pay for seventy five percent (75%) of the cost and DISTRICT shall pay twenty-five percent (25%) of the cost. The cost to the DISTRICT will not exceed \$100,000. CITY agrees to give at least thirty days advance notice of intent to install said traffic control device no later than April 1, 2018

B. Deceleration Lane

The PARTIES agree that as an appropriate public safety requirement for the safety of those using or visiting the facilities of the DISTRICT either for Ed Pastor Elementary School or the District Administration Building, a deceleration and stacking lane on the east side of Sixth Ave. by the property of DISTRICT needs to be developed. DISTRICT agrees to design and construct said deceleration and stacking lane. The target date to develop and construct said infrastructure ("infrastructure") shall be during the summer of 2017, and starting immediately upon full execution of this AGREEMENT but it shall be developed and completed no later than January 1, 2018

C. Temporary Certificate of Occupancy

The development of the infrastructure ("infrastructure") called for herein was a requirement for a certificate of occupancy for the District Administration Building. Upon execution of this intergovernmental AGREEMENT, CITY agrees to immediately issue a temporary certificate of occupancy conditioned upon the development of the infrastructure ("infrastructure") as stated in this AGREEMENT and such other conditions as may be appropriate pursuant to the Building Codes of the CITY as determined by the Building Official.

Section 7. General Terms and Conditions

A. Notice: Notices or other communications to the CITY regarding this AGREEMENT shall be either delivered personally by process service or sent by registered or certified mail, postage prepaid, addressed to:

If to CITY: Tadeo A. De La Hoya, City Manager
1090 East Union Street (personal service)
P.O. Box 1170 (by registered or certified mail)
San Luis, Arizona 85349

If to DISTRICT: Dr. Raymond Aguilera Superintendent
Gadsden Elementary School District #32
1453 N. Main Street, San Luis, AZ 85349

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.

B. Non-Discrimination Requirements: The PARTIES shall comply with State Executive Order #2009-09, which mandates that all persons, regardless of race, color, religion, sex, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable federal and state laws, rules and regulations, including Title VI, and all other federal and state employment and educational opportunity laws, rules and regulations, including Title VII of the Civil Rights Act of 1964, P.L. 88-854 (1964), and the Americans with Disabilities Act of 1999.

C. The PARTIES by their signatures below warrant and certify that they have reviewed A.R.S. Section 15-512 including but not limited to sub-paragraph H and further warrant that each and all of their employees, subcontractors and those for whom they have directed and direct responsibility, shall comply and cause any employee, subcontractor or employee of subcontractor or others for whom they are responsible (hereinafter "agents") to comply with A.R.S. Section 15-512. All PARTIES, subcontractors and agents shall each obtain and possess a valid fingerprint clearance card pursuant to Title 41, Chapter 12, Article 3.1 of the Arizona Revised Code prior to coming on to DISTRICT property and failure to do so shall be a substantial breach of this AGREEMENT.

D. Employment Eligibility: The PARTIES warrant, and shall require their subcontractors to warrant, that each is in compliance with all federal immigration laws and regulations that relate to their employees and with A.R.S. § 23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the AGREEMENT and is subject to penalties up to and including termination of this AGREEMENT. Each PARTY retains the legal right to inspect the papers of the other PARTY's employee or subcontractor employee who works on this AGREEMENT to ensure that the PARTY or its subcontractors are complying with this warranty. Employees hired by either PARTY to provide services, whether providing those services on premises owned by the CITY or the DISTRICT, shall be the employee of the hiring PARTY only.

E. Costs and Attorney Fees: In the event any action, suit, or proceeding is brought for failure to observe any of the terms, covenants, or provisions of this AGREEMENT, the prevailing PARTY shall be entitled to recover as part of such action or proceeding, all

litigation and collection expenses, including, but not limited to, witness fees, court costs, and reasonable attorney's fees.

F. Assignments and Successors: Neither PARTY shall assign its rights, nor delegate its duties, or otherwise dispose of any right, title, or interest in all or any part of this AGREEMENT, or assign any monies due or payable hereunder without the prior written consent of the other PARTY. Such consent shall not be unreasonably withheld.

G. Entire AGREEMENT: This AGREEMENT contains the entire AGREEMENT between the PARTIES, and no oral or written statement, promises, or inducements made by either PARTY or agent of either PARTY that is not contained in this written AGREEMENT or specifically referred to in this written AGREEMENT shall be valid or binding. This AGREEMENT may not be enlarged, modified, or altered except in writing signed by the PARTIES and endorsed herein.

H. Conflicts of Interests Provisions: This AGREEMENT is subject to the conflict of interest provisions of A.R.S. §38-511.

I. Venue: The PARTIES must initiate and maintain any mediation, arbitration, legal actions or other judicial proceedings arising from this AGREEMENT in a court of competent jurisdiction in Yuma County, Arizona.

J. Construction: Headings are solely for the PARTIES' convenience, are not a part of this AGREEMENT, and shall not be used to interpret this AGREEMENT. This AGREEMENT shall not be construed as if it had been prepared by one of the PARTIES, but rather as if both PARTIES have prepared it.

K. Counterparts: This AGREEMENT may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

L. Governing Law: The laws of the State of Arizona govern this AGREEMENT as to validity, interpretation, and performance.

M. Independent entities: DISTRICT and CITY are independent entities and contractors. Nothing in this AGREEMENT shall be deemed to constitute a partnership or joint venture between the PARTIES or constitute any PARTY or its agent, representative, or employee to be the agent, representative, or employee of the other PARTY for any purpose. Employees of the DISTRICT and the CITY shall not be personally liable under this AGREEMENT.

N. 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.

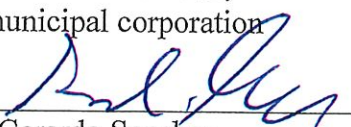
O. Amendment of the AGREEMENT. This AGREEMENT may be amended, in whole or in part and with respect to all or any portion of the Property, only with the mutual written consent of the PARTIES to this AGREEMENT.

P. 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.

Q. Time is of the essence.

DATED this 12th day of April, 2017

CITY OF SAN LUIS,
a municipal corporation

By 
Gerardo Sanchez
Mayor

GADSDEN ELEMENTARY SCHOOL
DISTRICT #32

By _____
Dr. Raymond Aguilera
Superintendent

APPROVED AS TO FORM:

By 
City Attorney

APPROVED TO AS FORM:

By _____
~~YUHSD~~ Attorney
G-ESD #32
KMM

ATTEST: 
City Clerk

I hereby state that I am an attorney for the City of San Luis, State of Arizona, and pursuant to the provisions of A.R.S. 11-952(D) have determined that the foregoing agreement is in proper form and is within the powers and authority granted to the City of San Luis, Arizona under the laws of the State of Arizona.

Dated this 12 day of April, 2017

By 
City Attorney

I hereby state that I am an attorney for Gadsden Elementary School District #32 (District), State of Arizona, and pursuant to the provisions of A.R.S. 11-952(D) have determined that the foregoing agreement is in proper form and is within the powers and authority granted to District under the laws of the State of Arizona.

Dated this _____ day of _____, 2017

By _____
G-ESD #32 District Attorney
KMM