

**AGREEMENT BETWEEN THE CITY OF YUMA AND YUMA CROSSING NATIONAL  
HERITAGE AREA FOR THE OPERATION AND MAINTENANCE OF THE  
COLORADO RIVER STATE HISTORIC PARK**

THIS Operation and Maintenance Agreement (“Agreement”) is entered into by and between the City of Yuma (“City”), an Arizona municipal corporation, and the Yuma Crossing National Heritage Area Corporation (“YCNHAC”), a non-profit organization. The City and YCNHAC are sometimes referred to individually as the “Party” and collectively as the “Parties.”

WHEREAS, since 1997, the City and Arizona State Parks and Trails (“State Parks”) have partnered to build and operate the Colorado River State Historic Park (“Colorado River Park”), previously called the Yuma Quartermaster Depot State Historic Park;

WHEREAS, due to state budget deficits in 2009, State Parks intended to close the Colorado River Park. To prevent the closure of Colorado River Park, the City Council authorized the City to execute an intergovernmental agreement with State Parks to operate and maintain Colorado River Park (“CRP Intergovernmental Agreement”). The City subsequently entered into an agreement with YCNHAC to operate and maintain the Colorado River Park (“CRP Operating Agreement”) and to fulfill the City’s obligations under the CRP Intergovernmental Agreement;

WHEREAS, the City and the State of Arizona, through State Parks, negotiated and executed a new intergovernmental agreement, Intergovernmental Agreement, ASPT IGA No.: PR17-069, on December 16, 2016, and approved by Yuma City Council at the December 8, 2016 City Council meeting, (“Parks Agreement”) to replace and supersede the CRP Intergovernmental Agreement;

WHEREAS, the CRP Operating Agreement needs updated to ensure YCNHAC is fulfilling the City’s revised obligations under the Parks Agreement;

WHEREAS, the City intends to continue providing operating assistance to Colorado River Park, but wishes to limit its financial obligation to the amount currently budgeted for in Fiscal Year 2017-2018;

WHEREAS, YCNHAC, as part of its management plan, is committed to operating, maintaining and enhancing the National Historic Landmark in which Colorado River Park is located, and is willing to pay operating costs; and

WHEREAS, YCNHAC staff possess the technical expertise required to meet the curatorial and historic preservation requirements included in the CRP Intergovernmental Agreement.

NOW, THEREFORE, the Parties, in consideration of the above recitals and the following mutual covenants and stipulations, agree as follows:

## **I. YCNHAC RESPONSIBILITIES**

YCNHAC shall:

- A. Perform the following services for the City:
  - 1. Manage and operate Colorado River Park on a daily basis, being responsible for all operating and maintenance costs, and maintain admission charges to the public consistent with those of other Arizona State Parks facilities;
  - 2. Continue coordinated operations with the Welcome Center of Yuma Visitors Bureau in the main building of Colorado River Park. YCNHAC shall coordinate daily operations with the Yuma Visitors Bureau, and shall coordinate major special events at the Colorado River Park with the Yuma Visitors Bureau;
  - 3. Develop and implement interpretive programming in cooperation with Arizona State Parks, which provide the history and tell the story of Colorado River Park;
  - 4. Fulfill and meet all the City responsibilities and requirements detailed in the Parks Agreement. The Parks Agreement, and any and all amendments to the Parks Agreement are attached as Exhibit A and incorporated herein by reference;
  - 5. Work with the City's Park and Recreation Department to promote arts and culture as an integral part of the programming at the Colorado River Park;
  - 6. With guidance from the City and State Parks, and in accordance with the Parks Agreement, develop and implement a Colorado River Park capital improvement program, including adopting a final version of the draft June 2015 Master Plan, on or before July 1, 2018 (unless the adoption of the final version is delayed, at no fault of YCNHAC, by State Parks) and develop a funding plan that involves state funding, grant funding, and YCNHAC funding. These improvements shall address the capital needs included in Exhibit 4 of the Parks Agreement. YCNHAC shall be responsible for design and implementation of any capital improvements, with review and approval by Arizona State Parks. The City shall not be obligated for any costs associated with the Colorado River Park capital improvement program without the express written commitment by the City and its incorporation into the City's annual budget; and
  - 7. Seek grants and corporate sponsorships to improve the Colorado River Park and expand the programming schedule.
- B. Maintain accurate records of all monies received from the City and the disbursement of all such monies. YCNHAC shall maintain an accounting system which complies with generally accepted accounting principles, including, but not limited to, SOP 78-10, FASB 116, and 117 as issued by the American Institute of Certified Public Accountants ("AICPA"), and with the AICPA Audit Guide for Non-Profit Corporations and shall separately account for all funds provided by the City pursuant to this Agreement.
- C. On or before July 1, 2017, provide the City with names and addresses of the current YCNHAC officers or directors, and a copy of the current YCNHAC bylaws, articles of incorporation and any amendments thereto. In the event of any change of officer and/or director, bylaws, or articles of incorporation, YCNHAC shall provide the City written

notice of said change and, if applicable, a copy of any changed bylaws or articles of incorporation within thirty (30) days thereafter.

- D. Within thirty (30) days after the end of each quarter (March 31, June 30, September 30, and December 31) of each year this Agreement is in effect, provide the City with a written program status report and records of revenue and disbursements of monies received in connection with the operation and maintenance of Colorado River Park. Such report shall contain analytical memoranda which:

1. Lists travel activities;
2. Lists capital expenditures;
3. Describes results of activities and expected achievements; and
4. Describes program effectiveness.

The program status report documenting activities shall be submitted biannually. The program status report documenting activities from January 1 to June 30 of each year this Agreement is in effect shall be submitted on or before July 30 of that year, and the program status report documenting activities from July 1 to December 31 of each year this Agreement is in effect shall be submitted to the City or before January 30 of the following year.

- E. Not change the regular admission fees to the public in effect as of the Effective Date of this Agreement without prior written approval of the City and State Parks.

## **II. CITY RESPONSIBILITIES**

The City shall:

- A. Evaluate YCNHAC's performance relative to the performance criteria set forth herein in order to assess the impact of the efforts of YCNHAC, any additional information desired by the City which is relevant and necessary to the City's evaluation shall be made available by YCNHAC.
- B. Provide funds each year this Agreement is in effect as directed by the City Council to YCNHAC, unless terminated as provided herein, in the amount stated in Section IV. Such sum is to be disbursed on a monthly basis as set forth in Section III of this Agreement.

## **III. METHOD OF PAYMENT**

- A. YCNHAC shall submit a request for payment monthly to the City's Director of Finance detailing the proposed expenditures for the month and actual expenditures to date.
- B. Upon approval of the request for payment by the City, the City's Director of Finance shall make payments within fifteen (15) days to YCNHAC, except that the City may, at

the City's sole discretion, withhold payment, in whole or in part, as may be necessary to protect the City from loss on account of:

1. YCNHAC's failure to render acceptable services as stated in the performance criteria of Section I of this Agreement. The City Administrator, or designee, shall investigate and monitor the quality of YCNHAC's services in order to determine whether such services are acceptable. Upon determination by the City Administrator that acceptable services are not being rendered, the City Administrator shall notify YCNHAC of the specific deficiencies in performance and provide a reasonable time for YCNHAC to rectify said deficiencies, but in no event shall such time to rectify exceed ninety (90) days. Whether or not YCNHAC's services are acceptable will be the City's exclusive decision;
2. YCNHAC's failure to supply information, documents, records or reports as required by this Agreement;
3. YCNHAC's failure to comply with the accounting procedures set forth in this Agreement; or
4. YCNHAC's failure to allocate money received from the City for the purposes described herein.

#### **IV. FINANCIAL SUPPORT AND TERM OF AGREEMENT**

- A. This Agreement shall be effective as of July 1, 2017 (the "Effective Date") and shall remain in full force and effect for one (1) year from the Effective Date (the "Initial Term"), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement shall automatically renew for up to four (4) successive one-year terms (each, a "Renewal Term") unless terminated as otherwise provided in this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.
- B. The City agrees to pay to YCNHAC one-hundred fifty thousand dollars (\$150,000.00) each year this Agreement is in effect for services to be provided by YCNHAC pursuant to this Agreement.
- C. The payment obligation of the City is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not allocated or available, as determined solely by the City, for the continuation of this Agreement, this Agreement may be terminated by the City at the end of the period for which funds are available. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. No liability will accrue to the City in the event this provision is exercised, and the City will not be obligated or liable for any further payments or for any damages as a result of termination pursuant to this Subsection C.
- D. Renewal of this Agreement beyond the Initial Term and each Renewal Term will be contingent upon YCNHAC's performance hereunder and as set forth in Section IV(C)

above, the City's appropriation of funds. If YCNHAC's performance does not, in all material respects, meet the minimum requirements as described in Section I of this Agreement, this Agreement may not be renewed by the City Council.

- E. Nothing herein shall preclude the City from contracting separately with YCNHAC for services to be provided in addition to those to be provided hereunder, upon terms and conditions to be negotiated by the City and YCNHAC.
- F. In no event shall YCNHAC use any monies received from the City under this Agreement to increase the compensation of any YCNHAC employee or officer. "Compensation" as used herein includes salary, commissions, bonuses or other monies, but does not include reimbursements for expenses, such as travel, materials or supplies if expenses are incurred in the course of furthering the objectives of this Agreement.

## **V. TERMINATION**

This Agreement may be terminated by the City at any time if any of the following occur:

- A. At the City's sole discretion, without cause, in which case the City shall provide thirty (30) days written notice;
- B. YCNHAC breaches this Agreement or defaults on any of its obligations set forth herein, by providing ninety (90) day notice to YCNHAC. Prior to such termination, the City shall notify YCNHAC of the specific grounds for termination and provide a reasonable time for remedial action by YCNHAC. In no event shall such time to remedy exceed ninety (90) days; or
- C. By mutual written consent of both Parties.

## **VI. INDEMNIFICATION**

To the fullest extent permitted by law, YCNHAC shall indemnify, defend and hold harmless (i) the City, and its officers, officials, agents, employees, or volunteers (collectively the "City"); (ii) the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (collectively the "State"); and (iii) any jurisdiction or agency issuing any permits for any work arising out of either this Agreement or the Parks Agreement (the persons within the three categories previously listed are collectively referred to as "Indemnatee") for, from and against any and all allegations, demands, claims, actions, liabilities, damages, judgments, penalties, fines, losses (including theft), injuries to property or persons (including death), and expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation, and the cost of appellate proceedings) (collectively referred to as "Claims") to the extent that such Claims, in whole or in part, arise out of or result from YCNHAC's intentional, reckless, or negligent acts, errors, directives, mistakes, or omissions in the performance of this Agreement. This indemnity includes any intentional, reckless, or negligent acts, errors, directives, mistakes, or omissions of YCNHAC's employees, agents, advertisers, contractors, subcontractors, guests,

patrons, invitees, trespassers or any other person for which YCNHAC may be legally liable, in the performance of this Agreement. This indemnity also includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of YCNHAC to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by YCNHAC from and against any and all claims. It is agreed that YCNHAC will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable.

The amount and type of insurance coverage requirements set forth in this Agreement will in no way be construed as limiting the scope of the indemnity in this Section V. The indemnity requirements set forth in this Agreement will in no way be construed as limiting the insurance required in this Agreement.

## **VII. INSURANCE**

A. The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in this Agreement. The State of Arizona and the City in no way warrant that the minimum limits contained herein are sufficient to protect YCNHAC from liabilities that might arise out of the performance of the work under this Agreement by YCNHAC, its agents, representatives, employees, or subcontractors, and YCNHAC is free to purchase additional insurance. If any Excess insurance is utilized to fulfill the requirements of this Article VII, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Minimum Scope And Limits Of Insurance: YCNHAC shall provide coverage with limits of liability not less than those stated below:

1. *Commercial General Liability – Occurrence Form*

YCNHAC shall maintain an "occurrence" form policy, and the policy shall include bodily injury, property damage, and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Damage to Rented Premises	\$ 50,000
Each Occurrence	\$1,000,000

- a. The policy shall be endorsed, as required by this written agreement, to include both the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees and the City of Yuma, and its departments, boards, officers, officials, volunteers, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the YCNHAC.

- b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of both the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees and the City of Yuma, and its departments, boards, officers, officials, volunteers, agents, and employees for losses arising from work performed by or on behalf of the YCNHAC.

2. *Business Automobile Liability*

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Agreement.

Combined Single Limit (CSL)	\$1,000,000
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- a. Policy shall be endorsed, as required by this written agreement, to include both the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees and the City of Yuma, and its departments, boards, officers, officials, volunteers, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the YCNHAC involving automobiles owned, hired, and/or non-owned by the YCNHAC.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of both the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees and the City of Yuma, and its departments, boards, officers, officials, volunteers, agents, and employees for losses arising from work performed by or on behalf of the YCNHAC.

3. *Professional Liability* If this Agreement is the subject of any professional services or work, or if the YCNHAC engages in any professional services or work adjunct or residual to performing the work under this Agreement, the YCNHAC shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the YCNHAC, or anyone employed by the YCNHAC, or anyone for whose negligent acts, mistakes, errors and omissions the YCNHAC is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

4. *Workers' Compensation and Employers' Liability*

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of both the State of Arizona, and its departments,

agencies, boards, commissions, universities, officers, officials, agents, and employees and the City of Yuma, and its departments, boards, officers, officials, volunteers, agents, and employees for losses arising from work performed by or on behalf of the YCNHAC.

- b. This requirement shall not apply to each YCNHAC or subcontractor that is exempt under A.R.S. § 23-901, and when such YCNHAC or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent YCNHAC).
- C. Additional Insurance Requirements: All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name and endorse, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, State Parks, the State of Arizona, and their agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.
- D. Primary Insurance: All policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:
  - 1. The YCNHAC's policies, as applicable, shall stipulate or be endorsed to evidence that the insurance afforded the YCNHAC shall be primary and that any insurance carried by the City, State Parks, the State of Arizona, and their agents, officials, employees, shall be excess and not contributory insurance.
  - 2. Insurance provided by YCNHAC shall not limit the YCNHAC's liability assumed under the indemnification provisions of this Agreement.
- E. Notice of Cancellation: Applicable to all insurance policies required within the insurance requirements set forth in this Section VII, YCNHAC's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) calendar days prior written notice to the State of Arizona and the City. Within two (2) business days of receipt, YCNHAC must provide notice to the State of Arizona and the City if YCNHAC receives notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the State Parks and shall be mailed, emailed, hand delivered, or sent by facsimile transmission to both:  

City of Yuma Attn: City Administration One City Plaza Yuma, AZ 85364 Tele: 928-373-5011 Fax: 928-373-5012	Arizona State Parks and Trails Attn: Keith Chamberlin, Partnering Coordinator 23751 N. 23 <sup>rd</sup> Avenue, Ste 190 Phoenix, AZ 85085 Tele: 602-542-6936 Fax: 602-542-4188
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- F. Acceptability of Insurers: YCNHAC's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best"



rating of not less than A- VII. The State of Arizona and the City in no way warrants that the above-required minimum insurer rating is sufficient to protect the YCNHAC from potential insurer insolvency.

- G. Verification of Coverage: YCNHAC shall furnish the State of Arizona and the City with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that YCNHAC has the insurance as required by this Agreement. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements must be received by the State and the City prior to commencing any work or services under this Agreement. The State's or the City's receipt of any certificates of insurance or policy endorsements that do not comply with this Agreement shall not waive or otherwise affect the requirements of this Agreement.

Each insurance policy required by this Agreement must be in effect at, or prior to, commencement of work under this Agreement, and shall remain in full force and effect for the duration of the Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of this Agreement.

All certificates required by this Agreement shall be sent directly to State Parks. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Agreement at any time.

- H. Subcontractors: YCNHAC's certificate(s) shall include all subcontractors as insureds under its policies or YCNHAC shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum insurance requirements identified in this Section VII. State Parks and the City reserve the right to require, at any time throughout the life of the Agreement, proof from the YCNHAC that its subcontractors have the required coverage.
- I. Approval and Modifications: The City and State Parks, in consultation with State Risk, reserve the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this Agreement, as deemed necessary. Such action will not require a formal amendment to this Agreement, but may be made by administrative action.
- J. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to State Parks and the City. YCNHAC shall be solely responsible for any such deductible or self-insured retention amount.

## **VIII. GENERAL CONDITIONS**

- A. Non-Discrimination Laws. YCNHAC shall not discriminate against any person on the basis of race, religion, color, age, sex, disability, or national origin in the performance of this Agreement, and shall comply with the terms and intent of Title VII of the Civil Rights Act of 1964, as amended, State Executive Order 2009-09, the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental disability, and with the Americans with Disability Act of 1990. In addition, YCNHAC shall include similar requirements of subcontractors in any contracts entered into for performance of YCNHAC's obligations under this Agreement.
- B. Financial Review. YCNHAC shall make their financial records available for inspection by the City, or its designee, upon reasonable notice during normal business hours of the City. If the City desires a financial audit by a certified public accountant of the YCNHAC's financial records to verify use of City funds according to the terms and conditions of this Agreement, YCNHAC shall cooperate fully in the performance of such audit. YCNHAC shall be responsible for the cost of such an audit if requested by the City and are entitled to a copy of any resulting reports that are received by the City.
- C. Compliance with Laws. YCNHAC shall comply with all federal, state, and local laws and ordinances applicable to its performance under this Agreement. In addition, YCNHAC shall include similar requirements of subcontractors in any contracts entered into for performance of YCNHAC obligations under this Agreement.
- D. Successors and Assigns. This Agreement is not assignable unless both Parties mutually consent otherwise in writing and signed by both Parties. The requirements of this Agreement are binding upon the heirs, executors, administrators, successors, and assigns of both Parties.
- E. Attorney Fees and Costs. 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, arbitration and collection expenses, including, but not limited to, witness fees, court costs, and reasonable attorney fees.
- F. Laws Governing/Venue. This Agreement shall be governed by the laws of the State of Arizona, as to validity, interpretation and performance. Any and all suits for any and every breach of this Agreement, or other judicial proceeding for the enforcement or interpretation of this Agreement shall be instituted and maintained in Superior Court in Yuma County, Arizona.

- G. Non-Waiver. The failure or delay of either Party to insist upon strict performance of any of the provisions of this Agreement, or to exercise any of the rights or remedies provided by this Agreement, shall not release either Party from any of the responsibilities or obligations imposed by law or by this Agreement, and shall not be deemed a waiver of any right of either Party to insist upon strict performance of this Agreement.
- H. Severability. If any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Arizona, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- I. Entire Agreement and Amendments. This instrument 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; and this Agreement may not be enlarged, modified, or altered except in writing signed by both Parties and endorsed hereon.
- J. Relationship of Parties. The Parties understand and expressly agree that YCNHAC is an independent contractor and is not an employee of the City. Nothing in this Agreement constitutes a partnership or joint venture between the Parties and neither Party is the principal or agent of the other.
- K. Rights/Obligations of Parties Only. The terms of this Agreement are intended only to define the respective rights and obligations of the Parties. Nothing expressed herein shall create any rights or duties in favor of any potential third-party beneficiary or other person, agency or organization.
- L. Time of the Essence. Time is of the essence in this Agreement. Unless otherwise specifically provided in this Agreement, any consent to delay in the performance of YCNHAC of any obligation shall be applicable only to the particular transaction to which it relates, and it shall not be applicable to any other obligation or transaction.
- M. Dispute Resolution. Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Arizona Uniform Rules of Procedure for Arbitration currently in effect unless the parties mutually agree otherwise. Request for arbitration shall be filed in writing with the other party to this Agreement.

N. Conflict of Interest. This contract shall be subject to the Conflict of Interest provisions of A.R.S. § 38-511, as amended.

O. Environmental Conditions. YCNHAC shall take all steps necessary to ensure YCNHAC compliance with all applicable federal, state, and local environmental laws, regulation and ordinances, and shall indemnify and hold the City harmless for any remediation required and from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death to any person or damage to any property or the environment of any nature whatsoever arising out of violations of such laws, regulations and ordinances.

P. E-verify Requirements. To the extent applicable under A.R.S. § 41-4401, YCNHAC and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under A.R.S. § 23-214(A). YCNHAC's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

The City retains the legal right to inspect the papers of any YCNHAC contractor or subcontractor employee who works on this Agreement to ensure that YCNHAC or subcontractor is complying with this warranty.

Q. Political Activities. Employees, directors, board members, officers, and volunteers of YCNHAC are prohibited from engaging in any political activity with respect to candidates for political office beyond the private expression of personal opinion, registering as a member of a political party, signing petitions and voting in any special, general, or primary election. No employee, director, board member, officer, or volunteer shall solicit any contribution in cash or service from any YCNHAC employee, director, board member, officer, or volunteer to support any candidate for public office. No employee, director, board member, officer, or volunteer shall use the name of YCNHAC, or use their affiliation with YCNHAC, to engage in any political activity of any kind or to solicit any contribution in cash or services to support any candidate for public office. If an employee, director, board member, officer, or volunteer should engage in said activities, they shall make it clear that they are doing so in their personal and private capacity, and are not associated with YCNHAC in any way while engaging in said activity. Employees, directors, board members, officers, and volunteers will refrain from engaging in any political activity while attending or participating in any YCNHAC function or event.

R. Boycott of Israel. Pursuant to A.R.S. § 35-393.01, YCNHAC certifies that YCNHAC is not engaged in a boycott of Israel as of the effective date of this Agreement, and agrees for the duration of this Agreement to not engage in a boycott of Israel.

- S. Notices. Unless otherwise provided in this Agreement, all notices, demands, requests, consents, approvals and other communications (collectively “Notices”) required or permitted hereunder shall be in writing and delivered by registered or certified U.S. mail, postage prepaid, or personally delivered, at the address shown below. Notices shall be deemed received at the time of actual receipt, which shall be evidenced by a copy of receipt (in the case of notices that are personally delivered), or as evidenced by the United States Postal Service receipt; or five (5) calendar days after mailing, whichever comes first, in the case of notices that are mailed.

To City:

City of Yuma  
Attn: City Administrator  
One City Plaza  
Yuma, Arizona 85364

To YCNHAC:

Yuma Crossing National Heritage Area  
Corporation  
Attn: Chairman and Executive Director  
180 W. 1st Street, Suite E  
Yuma, Arizona 85364

- T. Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, this Agreement will promptly be physically amended to make such insertion or correction.

*[Remainder of page intentionally left blank; signature page to follow]*

IN WITNESS WHEREOF, the Parties have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

City of Yuma, an Arizona municipal  
corporation

YCNHAC

\_\_\_\_\_  
Gregory K. Wilkinson  
City Administrator

\_\_\_\_\_  
Brian Golding Sr.

ATTEST:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

\_\_\_\_\_  
DATE

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard W. Files  
City Attorney

## **EXHIBIT A**

“Intergovernmental Agreement, ASPT IGA No.: PR17-069  
between  
the City of Yuma and Arizona State Parks and Trails”

[see following pages]