

INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF SAN LUIS, ARIZONA, REGARDING A SPECIALIZED LADDER AND RESCUE COMPONENTS PROCURED BY THE CITY OF YUMA AND DESIGNATED FOR USE BY THE CITY OF SAN LUIS, ARIZONA FIRE DEPARTMENT (SLFD)

This Intergovernmental Agreement (“Agreement”) is entered into by and between the City of Yuma, an Arizona municipal corporation (“Yuma”) and the City of San Luis, also an Arizona municipal corporation (“San Luis”). Yuma and San Luis are sometimes referred to collectively as the “Parties.”

RECITALS

WHEREAS, on June 18, 2024, the Arizona Department of Emergency and Military Affairs (DEMA) approved a grant amendment for the City of Yuma to procure and retain ownership of specialized border fencing access equipment; and,

WHEREAS, DEMA stipulated that once procured, the City would transfer the equipment to San Luis as an indefinite loan until such time as San Luis no longer requires the equipment, and the equipment shall then be returned to the City of Yuma; and,

WHEREAS, San Luis will be responsible for the use, inventory, care, and maintenance of the transferred equipment and is not authorized to surplus, sell, or otherwise dispose of the equipment; and,

WHEREAS, the Parties intend to provide first responder emergency access for rescue of individuals stuck on the border fence with Mexico; and,

WHEREAS, the Parties desire to render assistance to one another in accordance with the terms of this Agreement to provide the highest level of services and most effective use of local fire department resources working collaboratively through intergovernmental cooperation;

NOW, THEREFORE, in consideration of the recitals and the mutual terms and conditions of this Agreement, the Parties agree as follows:

AGREEMENT

1. Purpose. The purpose of this Agreement is to outline the roles, responsibilities, and indemnities for the City of Yuma and the City of San Luis.

2. Equipment Procurement and Ownership.

2.1. Yuma shall act as the procuring agency and retain ownership rights to the equipment shown below (collectively, “Equipment”).

| DESCRIPTION | QTY | UNIT PRICE | PRICE |
|--|-----|------------|------------|
| AK-APA-5-U (Ascender STANDARD Kit) | 1 | 97,430.10 | 97,430.10 |
| AK-LNCR=COMPACT-TAC (Launcher Kit COMPLETE) | 1 | 63,119.20 | 63,119.20 |
| AK-UPL-S-10.0HK-B (Monopole STANDARD VBSS Med Kit) | 1 | 67,608.44 | 67,608.44 |
| UPL (Ladder Section) | 4 | 8,579.32 | 34,317.28 |
| ATL-150ft-10.5mm (Rope) | 2 | 714.29 | 1,428.58 |
| AK-ATLAS-APP (Magnets STANDARD Kit) | 1 | 24,461.51 | 24,461.51 |
| AT-NET-LVL-1 (Training/Student) | 24 | .00 | .00 |
| AT-TRAVEL-CUSTOM | 2 | 1,650.00 | 3,300.00 |
| SALES TAX (AZ 8.412%) | 1 | 24,257.27 | 24,257.27 |
| | | | |
| Subtotal | | | 315,922.38 |
| | | | |
| Total USD Including Tax | | | 315,922.38 |

2.2 Yuma shall use accepted procurement methods to obtain the equipment.

2.3 Yuma shall seek and obtain reimbursement for the equipment from DEMA.

2.2. Yuma shall transfer the equipment to San Luis as an indefinite loan.

3. Responsibilities of San Luis.

3.1. San Luis shall be responsible for the use, inventory, care, and maintenance of the transferred equipment.

3.2. Loss, damage, or malfunction of the equipment shall be promptly reported to the Yuma Fire Department.

3.3. San Luis is not authorized to surplus, sell, or otherwise dispose of the equipment.

3.4. Should San Luis no longer require the equipment or in the event of termination of this Agreement, notification shall be made to the Yuma Fire Department and the Equipment shall be returned to the City of Yuma within 30 days.

4. Responsibilities of the City.

4.1. Compliance and Reporting. Yuma Fire Department shall submit quarterly compliance reports to DEMA on behalf of San Luis.

4.2 Training.

4.1.1. Yuma shall include designated members of the SLFD in the New Equipment Training delivered by the vendor.

4.1.2. Trained SLFD employees shall be responsible for delivering the training to all members of the SLFD.

5. Indemnification and Liability.

5.1 Yuma shall not be liable for any damage, injury, or death arising from the use, including improper use of the Equipment, malfunction, or failure of the Equipment, or any other circumstances arising from the use of the Equipment. San Luis shall indemnify Yuma against any and all claims relating to the use of the Equipment.

5.2. San Luis shall maintain no less than \$1,000,000.00 liability and worker's compensation insurance to cover claims arising from damage or injury incurred while using the Equipment. Such insurance shall contain endorsements naming the City of Yuma and Arizona DEMA as additional insureds, shall be primary, and shall include an endorsement waiving any right of subrogation against the additional insureds.

6. Termination. This Agreement may be terminated by either Party upon thirty (30) days written notice to the other Party.

7. Miscellaneous.

7.1. This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations, or Agreements, whether written or oral.

7.2. Any amendments or modifications to this Agreement must be in writing and signed by an authorized representative of both Parties.

8. Notice. All notices or other communications must be in writing and are deemed duly delivered upon personal delivery, or as of the second business day after mailing by United States mail, postage prepaid, registered or certified, return receipt requested, addressed as follows:

YUMA: City of Yuma
 Attn: Fire Chief
 One City Plaza
 Yuma, AZ 85364

San Luis: City of San Luis
 Attn: Fire Chief
 P. O. Box 445
 San Luis, AZ 85349

If either Party changes address, the Party must give written notice to the other Party. Notice of change of address is deemed effective five (5) days after mailing by the Party changing its address.

9. **Headings.** The headings of this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

10. **Authority.**

14.1. The Yuma City Council enters into this Agreement pursuant to its power to adopt intergovernmental Agreements as granted in Article III, Section 13 of the City of Yuma Charter and A.R.S. § 11-952.

14.2. The San Luis City Council enters into this Agreement pursuant to its power to adopt intergovernmental Agreements as granted and A.R.S. § 11-952.

11. **Anti-Deficiency Act.** Nothing in this Agreement shall be construed as requiring the Parties to act in violation of any applicable state, federal, or local statute, rule, or regulation including, but not limited to, the Anti-Deficiency Act.

12. **Jurisdiction/Venue/Applicable Law.** The Parties must institute and maintain any legal actions or other judicial proceedings arising from this Agreement in a court of competent jurisdiction in Yuma County, Arizona. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

13. **Workers Compensation.** The employees, agents, officials, or representatives of the Parties will not for any purpose be considered employees, agents, officials, or representatives of the other. Each Party assumes full responsibility for the actions of its personnel while performing services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, and payment of salary (including withholding income taxes, etc.).

Solely for the purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws, an employee of either Party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue.

Each Party shall post a notice pursuant to the provisions of A.R.S. § 23-1022 in substantially the following form:

"All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental Agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purpose of worker's compensation."

14. Conflict of Interest. This Agreement is subject to the conflict of interest and cancellation provisions of A.R.S. § 38-511, as amended, the provisions of which are incorporated by reference.

15. Attorneys' Fees and Costs. If either Party brings an action or proceeding for failure to observe any of the terms or provisions of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and costs.

16. Independent Contractor/No Partnership. It is clearly understood that each Party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. Nothing in this Agreement constitutes a partnership or joint venture between the Parties and neither Party is the principal or agent of the other.

17. E-Verify. To the extent applicable under A.R.S. § 41-4401, the Parties warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). Failure by any Party to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement. To the extent authorized under A.R.S. § 44-4401, each Party shall have the right to inspect the documents of any employee who performs work under this Agreement for the purpose of ensuring that the other Party is in compliance with the warranty in this provision.

18. Compliance with All Laws. Each Party shall comply with all applicable federal, state, and local laws, rules, regulations, Arizona DEMA grant provisions, and Executive Orders. The laws and regulations of the State of Arizona will govern the rights of the Parties, the performance of the Agreement and any disputes hereunder. Any changes in the governing laws, rules, and regulations during the terms of this Agreement will apply but do not require an amendment of this Agreement.

19. Boycott of Israel. The Parties certify that they are not currently engaged in and agree for the duration of this Agreement that they will not engage in a "boycott," as that term is defined in A.R.S. § 35-393, of Israel.

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

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, this Agreement has been executed on the dates and year herein below.

Date: _____, 2024

Date: _____, 2024

CITY OF YUMA

CITY OF SAN LUIS

John D. Simonton
City Administrator

Jenny Torres
City Manager

ATTEST:

ATTEST:

Lynda L. Bushong
City Clerk

Sonia Cornelio
City Clerk

Pursuant to A.R.S. § 11-952, the foregoing Agreement has been submitted to the undersigned City Attorney for the City of Yuma, Arizona. The undersigned has determined this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona and the City Charter to the City of Yuma.

Richard W. Files, City Attorney

Pursuant to A.R.S. § 11-952, the foregoing Agreement has been submitted to the undersigned City Attorney for the City of San Luis, Arizona. The undersigned has determined this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the City of San Luis.

Kay Marion Macuil, City Attorney