

**MEMORANDUM OF AGREEMENT
BETWEEN
THE ARIZONA ARMY NATIONAL GUARD (AZARNG)
CONSTRUCTION AND FACILITIES MANAGEMENT OFFICE (CFMO)
AND
THE CITY OF YUMA
FOR
COST ALLOCATION
AGREEMENT NUMBER W61LP3-24177-001**

This agreement documents the details of cost allocation between the AZARNG, CFMO and the City of Yuma (City) for the Yuma Readiness and Community Center located at 6550 E. 24th Street, Yuma, Arizona (Building U4100). When referred to collectively, AZARNG and City of Yuma are referred to as the "Parties."

1. BACKGROUND. In 2002, they City and AZARNG entered into an exclusive rental agreement for the construction and joint use of Building U4100.

2. AUTHORITIES.

2.1. Economy Act Orders (31 U.S.C 1535)

3. PURPOSE AND SCOPE. The purpose of this agreement is to establish a mutual framework governing the respective organizational relationships, responsibilities, and activities between the CFMO and the City for upgrading the existing HVAC system and electrical systems for Building U4100.

4. RESPONSIBILITIES OF THE PARTIES.

4.1. The CFMO will— complete project management responsibilities for the construction and modernization of Building U4100, to include resource management (RM) for the project.

4.1.1. Design & Project Management (DPM) team will meet with the City of Yuma and contractors to determine the scope of work and update the City of Yuma on project.

4.1.2. Procure contract services as needed for the design, testing, and/or construction of the project, review and approve submittals.

4.1.3. Conduct weekly inspections to ensure compliance with the approved schedule and budget.

4.1.4. Reviews and approves construction submittals; confirming materials, products, and equipment to meet contracted requirements, deconflicts any requests for information (RFIs) between DPM and the contractor.

4.1.5 Coordinates and conducts weekly walkthroughs with the Owner/Architect/Contractor to verify progress and monthly pay applications submitted by the contractor.

4.1.6. Coordinates with third party vendors for any applicable requests by AZARNG and the City.

4.1.7. Coordinates any change order reviews and processes as applicable for any unforeseen conditions during project, e.g. request for more funds or time. If change order exceeds budget, notify the City.

4.1.8. Closeout project documentation that includes AZARNG Form DD1354, initial contract, payouts, change orders, environmental compliance.

4.1.9. Prepares and processes billing and disbursements.

4.1.10. If CFMO determines that actual costs under this agreement will exceed the amount of reimbursable funding authority provided, then it shall promptly notify the City of Yuma of the amount of additional funding necessary to complete the required work.

4.1.11. Upon completion of the project, CFMO shall return to City of Yuma any funding in excess of the actual costs. However, the return of excess funding shall in no way limit City of Yuma's duty in accordance with this agreement to pay for any costs, such as contract claims or other liability, which may become known or arise after completion of the work.

4.1.12. CFMO is responsible for paying 50% of the costs for renovation of building U4100, in the amount of \$441,336.58.

4.2. The City agrees to reimburse the CFMO 50% of the direct and indirect costs associated with upgrading the existing HVAC system and electrical systems for Building U4100, up to \$441,336.58.

4.2.1. City's total payment obligation under this Agreement shall not exceed \$441,336.58 unless the City is notified of, and agrees to, all change orders that exceeds the allocated budget. In no event shall the City be responsible to pay more than 50% of the total costs for renovation of Building U4100.

4.3. Both Parties will—

4.3.1. Notify in writing if any changes, revisions, and/or modifications of agreement are needed.

4.3.2. Agree reimbursements can be incremental when invoices and/or projects are complete, however, all funds should be reimbursed within 30 days of the estimated completion date of 30 October 2024.

4.3.3. Subject to Paragraph 4.2.1, the Parties agree reimbursement cost of permits are equally split.

5. **PERSONNEL.** None.

6. **GENERAL PROVISIONS.**

6.1. **POINTS OF CONTACT.** The following points of contact (POC) will be used by the Parties to communicate matters concerning this support agreement. Each Party may change its POC upon reasonable notice to the other Party.

6.1.1. For the City of Yuma—

6.1.1.1. Mr. Edgar Covarrubias, City of Yuma, Asst. Director of Facilities Management, 928.373.4523, edgar.covarrubias@yumaaz.gov.

6.1.1.2. Mr. Eric Urfer, Director of Parks and Recreation, eric.urfer@yumaaz.gov.

6.1.2. For the AZARNG CFMO—

6.1.2.1. CPT Tanya Curtis, CFMO Business Manager, .602.629.4462, tanya.r.curtis.mil@army.mil.

6.1.2.2. Mr. Benjamin Malcom, CFMO Resource Manager, 602.629.4020, benjamin.t.malcom.mil@army.mil.

6.1.2.3. Mr. Michael Tripsas, Project Manager, 602.267.2759, Michael.I.tripsas2.nfg@army.mil.

6.1.2.4. Ms. Elizabeth (Liz) Voss, Director Design & Project Management, 480.241.0407, Elizabeth.a.voss.civ@army.mil.

6.1.3. For the United States Fiscal and Property Office, Arizona

6.1.3.1. Mr. Dan Davis, USPFO Grant Office Representative, 602.267.2804, daniel.e.davis26.civ@army.mil.

6.1.3.2. Mr. William Abbott, USPFO Financial Manager, 602.267.2145, william.p.abbott.civ@army.mil.

6.1.3.3. COL Mark Railey, USPFO for Arizona, 602.297.2447, mark.r.railey.mil@army.mil.

6.2. CORRESPONDENCE: All correspondence to be sent and notices to be given pursuant to this support agreement will be addressed, if to the City of Yuma, to—

6.2.1. The City of Yuma
Attn: Edgar Covarrubias
155 West 14th Street
Yuma, AZ 85364

and, if to the AZARNG, to—

6.2.2. United State Property & Fiscal Office (USP&FO)
Attn: Ben Malcom
5636 E. McDowell Road
Phoenix, AZ 85008-3495

6.3. REVIEW OF AGREEMENT. This support agreement will be reviewed on or around the anniversary of its effective date annually for financial impacts; if there are substantial changes in resource requirements, the agreement will be reviewed in its entirety.

6.4. MODIFICATION OF AGREEMENT. This support agreement may only be modified by the written agreement of the Parties, duly signed by their authorized representatives.

6.5. DISPUTES. Any disputes relating to this support agreement will, subject to any applicable law, Executive Order, or DoD issuance, be resolved by consultation between the Parties.

6.6. TERMINATION OF AGREEMENT. This support agreement may be terminated by either Party by giving at least 90 days written notice to the other Party. The support agreement may also be terminated at any time upon the mutual written consent of the Parties.

6.7. TRANSFERABILITY. This agreement is not transferable except with the written consent of the Parties.

6.8. ENTIRE AGREEMENT. It is expressly understood and agreed that this support agreement embodies the entire agreement between the Parties regarding the support agreement's subject matter, thereby merging and superseding all prior agreements and representations by the Parties with respect to such subject matter.

6.9. EFFECTIVE DATE. This support agreement takes effect on 28 June 2024.

6.10. EXPIRATION DATE. This agreement expires when the project is complete.

6.11. NO THIRD-PARTY BENEFICIARIES. Nothing in this support agreement, express or implied, is intended to give to, or will be construed to confer upon, any person not a party any remedy or claim under or by reason of this support agreement and this support agreement will be for the sole and exclusive benefit of the Parties.

6.12. SEVERABILITY. If any term, provision, or condition of this agreement is held to be invalid, void, or unenforceable by a governmental authority and such holding is not or cannot be appealed further, then such invalid, void, or unenforceable term, provision, or condition shall be deemed severed from this agreement and all remaining terms, provisions, and conditions of this agreement shall continue in full force and effect. The Parties shall endeavor in good faith to replace such invalid, void, or unenforceable term, provision, or condition with valid and enforceable terms, provisions, or conditions which achieve the purpose intended by the Parties to the greatest extent permitted by law.

6.13. OTHER FEDERAL AGENCIES. This agreement does not bind any Federal agency, other than the Parties, nor waive required compliance with any law or regulation.

6.14. CONFLICT OF INTEREST. This agreement is subject to the conflict-of-interest provisions of A.R.S. § 38-511.

7. FINANCIAL DETAILS. See Appendix 1 for financial details.

7.1. AVAILABILITY OF FUNDS. This support agreement does not document the obligation of funds between the Parties. The obligation of funds by the Parties resulting from this agreement is subject to the availability of funds pursuant to the DoD Financial Management Regulation. No provision in this support agreement will be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, Section 1341 of Title 31, United States Code.

7.2. BILLING. The AZARNG will send a copy of the pay application for payment to the City of Yuma and provide invoice in accordance with the procedures of the Billing Party. A record of the transaction will be sent to the City of Yuma within 30 days after the transfer of funds has occurred.

7.3. PAYMENT OF BILLS. The City of Yuma paying office will forward payments, along with a copy of billed invoices, to the AZARNG within 30 days of the date of invoice. Bills rendered will not be subject to audit in advance of payment.

7.3.1. Send a certified check payable to the U.S. Treasury to the point of contact listed in paragraph 6.2.2.

7.4. FINANCIAL SPECIFICS. See Appendix 1 for all other details and information on the reimbursable support identified in this support agreement.

7.5. ECONOMY ACT DETERMINATION AND FINDINGS (D&F). If the support agreement is being entered into in accordance with Section 1535 of Title 31, United States Code (the Economy Act), both Parties agree that the requirements listed in Paragraph (a) of the Economy Act have been met. The provider has determined that the capabilities exist to render the requested support without jeopardizing its assigned missions.

AGREED:

For the AZARNG

For the City of Yuma



Signature

Signature

KERRY L. MUEHLENBECK
Major General, AZ ANG
The Adjutant General

JOHN D. SIMONTON
City Administrator

25 SEP 2024

(Date)

(Date)

For the National Guard Bureau

Attest

RAILEY.MARK.RIC Digitally signed by
RAILEY.MARK.RICHARD.11585
33188
Date: 2024.09.26 05:43:39 -07'00'
HARD.1156533188

Signature

Lynda Bushong, City Clerk

MARK R. RAILEY
COL
USPFO for Arizona

Approved as to Form

(Date)

Richard W. Files, City Attorney