

**INTERGOVERNMENTAL AGREEMENT
TO ESTABLISH A SCHOOL SAFETY INTEROPERABILITY PROGRAM
BETWEEN**

THE CITY OF YUMA AND WELLTON ELEMENTARY SCHOOL DISTRICT NO. 24

This Intergovernmental Agreement to Establish a School Safety Interoperability Program (“Agreement”) is entered by the City of Yuma, Arizona (“City”), a municipal corporation of the State of Arizona, and the Wellton Elementary School District No. 24 (“District”), a public school district. The City and the District may be referred to individually as “Party” or collectively as “Parties”.

RECITALS

WHEREAS, the Parties are authorized by A.R.S. § 11-952 *et. seq.*, Article III, Section 13, of the Yuma City Charter, and A.R.S. § 15-342.13 to enter into agreements for the joint exercise of any power common to the contracting parties as to governmental functions necessary to the public health, safety and welfare, and the proprietary functions of such public agencies; and,

WHEREAS, the enactment of A.R.S. § 41-1733 established a School Safety Interoperability Fund to distribute monies to the sheriff of a county or a city or town police department to establish a school safety program that meets the enumerated standards; and,

WHEREAS, the City accepted these monies from the Arizona Department of Administration (“ADOA”) and has procured a School Safety Interoperability System that is compliant with A.R.S. § 41-1733 requirements; and,

WHEREAS, the Parties desire to work in cooperation with one another to further the goals of the School Safety Interoperability Program and shall accept the roles and responsibilities as established in the School Safety Interoperability Program guidelines; and,

WHEREAS, the Parties desire to jointly develop standard operating procedures and functional exercise test plans for the use of the School Safety Interoperability System; and,

WHEREAS, the City will assign software licenses to each school in the District to utilize the School Safety Interoperability System; and

NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the City and District (“Parties”) agree as follows:

SECTION 1 – Purpose: The purpose of this Agreement is to provide the terms and conditions for the joint use and operation of the School Safety Interoperability System.

SECTION 2 – Effective Date: This Agreement is effective and binding from the date of the last Party’s governing board’s signature.

SECTION 3 – Term: This Agreement is in effect for five (5) years commencing upon the Effective Date. There are no automatic renewals.

SECTION 4 – Services to be Provided: The City will provide the following services to the District via a software agreement the City procured with Motorola Solutions, Inc. (“Vendor”) attached as Exhibit A:

- RAVE Panic Button application for District employees.
- RAVE Command View for District employees to manage panic button activations and collaborate with first responders.
- RAVE Link for automated notifications about priority computer aided dispatch (CAD) incidents occurring within the proximity of a school campus.
- Integration of Command Central Aware with District video management system (VMS).

SECTION 5 – Roles and Responsibilities:

A. City:

1. The City is responsible for administering funds and expenditures for the School Safety Interoperability System, except for items listed in Section 7.
2. The City will assign a project manager to oversee Vendor project activities, including any change orders to the software agreement.
3. The City will manage deployment of services to Yuma Regional Communications System member agencies.
4. The City will establish a School Safety Interoperability working group of all participating school districts and public safety agencies to develop policies, procedures, and functional exercise test plans for the regional system.
5. The City will provide all financial reporting to the ADOA for expenses and use of the School Safety Interoperability Fund.

B. District:

1. The District will communicate to the City what School Safety Interoperability System services it desires to utilize.
2. The District will assign a project manager to coordinate with the City and Vendor for all District project activities.
3. The District will manage the deployment of services to its employees.
4. The District will provide existing communications assets and networks, or acquire the communications assets or networks necessary, to implement the School Safety Interoperability System.
5. The District will load floorplans to the system and define geo-boundaries within District campuses to direct first responders to the location of a panic button activation.

6. The District will work collaboratively with the School Safety Interoperability working group.

SECTION 6 – School Safety Interoperability System Funding: The School Safety Interoperability Fund appropriation to the Yuma Police Department is expected to purchase five (5) years of software subscription and maintenance services for the items in Exhibit A. Items requested by the District outside of the scope of Section 4 and Exhibit A may require the District to contribute the costs.

SECTION 7 – Items Not Covered: This Agreement does not include costs associated with the acquisition, installation, replacement, or repair of District specific equipment such as mobile devices, laptop or desktop computers, associated accessories and software, communications networks, video cameras, VMS, and access control systems. This Agreement does not include system costs for school campuses or facilities beyond those actively in use as of the Effective Date. This Agreement does not include any contracts between a Party and a third-party vendor. The School Safety Interoperability System does not replace current wireline and wireless 9-1-1 services for emergencies.

SECTION 8 – Contracts and Procurement for School Safety Interoperability System: The City will maintain all purchasing and support contracts for the School Safety Interoperability System. Purchase of the School Safety Interoperability System will follow all applicable City and State procurement requirements.

SECTION 9 – Termination:

1. Any Party may terminate this Agreement, with or without cause, by providing sixty (60) days written notice of its intent to terminate to the other Party.
2. Pursuant to A.R.S. § 41-2546, both Parties are government entities, and the Agreement validity is based upon the availability of public funding under their authorities. If the public funds are unavailable and not appropriate for the performance of either Party's obligations under this Agreement, then this Agreement shall automatically expire without penalty to either Party, after written notice to the other of the unavailability and non-appropriations of public funds. It is expressly agreed that neither Party shall activate this non-appropriation provision for its convenience or to circumvent the requirements of the Agreement, but only as an emergency fiscal measure.
3. Pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by reference, this Agreement is subject to cancellation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement is, at any time while the Agreement is in effect, an employee or agent of any other Party to the Agreement in any capacity or a consultant to any other Party of the Agreement with respect to the subject matter of the Agreement.

SECTION 10 – Authorized Use: The School Safety Interoperability System, its interfaces, and user applications shall only be used by employees of a Party within the guidelines of the policies and procedures established by the School Safety Interoperability working group.

SECTION 11 – Relationship of the Parties: The employees, agents, officials, or representatives of the Parties will not, for any purpose, be considered employees, agents, officials, or representatives of the other Party. Each Party assumes full responsibility for the actions, inactions, negligence, or reckless acts of its personnel while performing services under this Agreement and shall be solely responsible for their supervision, direction and control, discipline, payment of salary (including withholding income taxes and social security), workers' compensation and disability benefits. Nothing in this Agreement constitutes a partnership or joint venture between any Party and neither Party is the principal or agent of the other.

SECTION 12 - Authorization: This Agreement has been approved by actions taken by each of the governing bodies of each Party. The persons executing this Agreement on behalf of the Parties hereby represent and guarantee that they have been authorized to do so, on behalf of themselves and the entity they represent. Further representation is made that due diligence has occurred, and that all necessary internal procedures and processes, including compliance with the open meeting law where necessary, have been satisfied to legally bind the Party to the terms of this Agreement.

SECTION 13 - Conflict of Interest: This Agreement is subject to the conflict of interest and cancellation provisions of Arizona Revised Statutes, § 38-511, as amended.

SECTION 14 - Attorney Fees and Costs: If any 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 attorney fees and costs as determined by the court.

SECTION 15 - Compliance with Law: The Parties must comply with all federal, state, and local laws and ordinances applicable to its performance under this Agreement.

SECTION 16 - Severability: If any terms, parts, or provisions of this Agreement are for any reason invalid or unenforceable, the remaining terms, parts, or provisions are nevertheless valid and enforceable.

SECTION 17 - Integration: This Agreement contains the entire agreement between the Parties, and no oral or written statements, promises, or inducements made by either Party or its agents not contained or specifically referred to in this Agreement is valid or binding. All modifications to this Agreement must be in writing, signed and endorsed by the Parties.

SECTION 19 - Indemnification: Each Party agrees to defend, indemnify, and hold harmless the other and its agents, officials, employees, and representatives from and against any and all claims, losses and expenses resulting from that Party's negligent or intentional acts, mistakes, or omissions in the performance of this Agreement. Unless otherwise expressly provided, the Parties shall be individually responsible for the conduct of its own operations and performance of obligations under the Agreement and for any accidents, injuries to or the death of persons or damage or loss of property arising out of negligent or wrongful acts or omissions by its officers, agents or employees acting in the course or scope of their employment and/or while performing duties

undertaken pursuant to this Agreement. To the extent allowed by law, the Parties shall each indemnify the other for the acts or omissions of its own officers, agents, or employees acting in the course or scope of their employment that may lead to any claims, liability, loss, or expense brought against the other Party, including reasonable costs, collection expenses, and attorney's fees incurred in the defense of the claim.

SECTION 20 – Insurance: The City and the District shall maintain adequate insurance to cover any liability arising from the acts and omissions of their respective employees and agents. The Parties each represent and warrant to the other that it will maintain liability insurance coverage with a minimum value of one-million dollars (\$1,000,000.00) per occurrence and two-million dollars (\$2,000,000.00) in the aggregate. Parties each agree they have had the opportunity to verify each Party's coverage prior to signing this agreement. In the event either Party is unable to maintain this insurance minimum, then other Party shall be notified in writing within ten (10) days and be given the opportunity to terminate this Agreement.

SECTION 21 - Notices: Any notice required or permitted by this Agreement shall be in writing and shall be deemed given if delivered in person, electronic mail with delivery receipt, or ten (10) days after mailing, by United States registered or certified mail, postage prepaid, and addressed to the following:

| | |
|--|---|
| City of Yuma Attn: Jeremy Jeffcoat, Asst. IT Director of the Yuma Regional Communications System 190 West 14 th Street Yuma, Arizona 85364 | Wellton Elementary School District No. 24 Attn.: Lisa Jameson, Superintendent P.O. Box 517 Wellton, Arizona 85356-0517 |
|--|---|

Unless otherwise agreed to, all information-sharing between the Parties described in this Agreement will flow between these points of contact. The Parties agree to notify the other Party of any changes to their points of contact within five (5) days of the change.

SECTION 22 - Recording: This Agreement shall be recorded in the Office of the County Recorder of Yuma County Arizona and with the City of Yuma Clerk's Office.

SECTION 23 - Modifications: No modifications, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the Party against whom the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

SECTION 24 - Assignment: This Agreement is not assignable without the mutual written consent of both Parties.

SECTION 25 – Rights 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.

SECTION 26 - Dispute Resolution: In the event a dispute arises, to the extent required by A.R.S. §12-1518, the Parties agree to submit any dispute to mediation or arbitration.

SECTION 27 - Venue: The Parties must institute and maintain any legal actions or other judicial proceedings arising from this Agreement in the Superior Court of Yuma County, or the United States District Court of Arizona, Yuma County, as appropriate.

SECTION 28 - Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

SECTION 29 – No Boycott of Israel; Forced Labor of Ethnic Uyghurs: To the extent applicable under Ariz. Rev. Stat. §§ 35-393 through 35-393.03, each party certifies it is not currently engaged in and agrees that it will not engage in for the duration of this Agreement, a “boycott” of Israel, as that term is defined in Ariz. Rev. Stat. § 35-393. To the extent applicable under Ariz. Rev. Stat. § 35- 394, the parties warrant and certify that they do not currently, and agree that they will not, for the duration of this Agreement, use the forced labor, any goods or services produced by the forced labor, or any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

SECTION 30 - Employment Eligibility: Each Party warrants, and shall require its subcontractors to warrant, that it is in compliance with A.R.S. § 41-4401, A.R.S § 23-214(A), the Federal Immigration and Nationality Act (FINA), and all other Federal immigration laws and regulations at all times when operating in the State of Arizona. A breach of this warranty shall be deemed a material breach of the IGA and is subject to penalties up to and including termination of this IGA. The Parties retain the legal right to inspect the citizenship documents of any Party employee or subcontractor employee who works on this IGA to ensure that the other Party or its subcontractors are complying with this warranty.

SECTION 31 – Workers Compensation: For purposes of workers’ compensation, an employee of a Party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another Party, is deemed to be an employee of both the Party who is his/her primary employer and the Party under whose jurisdiction or control or within whose jurisdictional boundaries he/she is then working, as provided in A.R.S. §23-1022(D). The primary employer of such employee shall be solely liable for payment of workers’ compensation benefits for the purposes of this section. Each Party herein shall comply with the provisions of A.R.S. § 23-1022(E) by posting the notice required.

SECTION 32 – Nondiscrimination: The Parties shall comply with all applicable State and Federal employment laws, rules, and regulations, which require that all persons shall have equal access to employment and educational opportunities regardless of race, color, religion, disability, sex (including sexual preference/identity), age, national origin, veteran’s status, genetic code, or political affiliation during the term of this Agreement.

SECTION 33 – Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and which together shall constitute the Agreement.

SECTION 34 – Impossibility: Neither Party to this Agreement shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any reason beyond its control, including without limitation, global or national pandemics, acts of God or of the public enemy, flood or storm, strikes or statutory regulation or rule of any federal, state, or local government, or any agency thereof.

SECTION 35 – Recordkeeping and Confidentiality:

1. All student identities, records and personally identifiable information shall be kept confidential in accordance with the Family Educational Rights and Privacy Act (FERPA) and regulations adopted pursuant to that Act; the Individuals with Disabilities Education Act as Amended (IDEA) and regulations adopted thereunder; the Section 504 of the Rehabilitation Act and the regulations adopted thereunder; and applicable District board policies regarding the disclosure of personally identifiable information from students' education records. The City, acting pursuant to this Agreement, may be granted access to educational records or information. As such, the City's designated authorized employees, when acting pursuant to this Agreement, are hereby designated as "school officials" for purposes of this Agreement to receive access to educational records of students participating in the Program that is the subject of this Agreement. Neither the City or its designated authorized employees will disclose student information it receives to any third party, except with the prior written consent of District and the adult student and/or parent or guardian, as applicable. The City agrees it will use student information received pursuant to this Agreement solely to accomplish its obligations under this Agreement and solely in a manner and for purposes consistent with the terms and conditions of this Agreement and District policies and procedures. Notwithstanding this Section, the City is governed by the Arizona Public Record Laws, pursuant to Title 39 of the Arizona Revised Statutes. In the event there is a conflict between the requirements of Title 39 and the terms of this Agreement, the City shall notify the District in writing to provide the District an opportunity to seek injunctive relief against disclosure. The District acknowledges any such injunctive action must be taken promptly, as Arizona law prevents the City from delay in the production of public records.
2. Each Party shall retain all books, accounts, reports, files, documents, and records relating to the performance of this Agreement for a period of five (5) years, or as long as required by the Arizona State Library records retention schedules, after the completion of this Agreement, and agrees to make such documents open to inspection and audit by the other Party upon written request.
3. In the event recorded video is transmitted to the City by the District as part of a criminal investigation, the video shall become the property of the City and shall be governed by the Arizona laws relating to public records, as well as any evidentiary and criminal procedural rules and court orders. The City agrees to act to always maintain student privacy, so long as maintaining such privacy does not violate any Arizona laws, court rules, or court orders.
4. All recorded video that is not transmitted to the City for the purposes of a criminal investigation shall remain the property of the District.

[Signature Blocks on Next Page]

| | |
|---|---|
| Wellton Elementary School District No. 24 | City of Yuma |
| <hr/> Lisa Jameson, Superintendent Date: _____ | <hr/> John D. Simonton, City Administrator Date: _____ |
| | ATTEST: <hr/> Lynda Bushong, City Clerk Date: _____ |

Pursuant to A.R.S. § 11-952, this Agreement has been reviewed by the undersigned attorney and is approved as to being in proper form and authority.

| | |
|---|--|
| Wellton Elementary School District No. 24 | City of Yuma |
| <hr/> [Attorney name] Date: _____ | <hr/> Richard W. Files, City Attorney Date: _____ |