

EXHIBIT A

MUTUAL AID AGREEMENT: FIRE, EMERGENCY MEDICAL, AND RESCUE RESPONSE AGREEMENT BETWEEN THE CITY OF YUMA, ARIZONA, AND RURAL/METRO FIRE DEPARTMENT, INC.

This Mutual Aid Agreement (“Agreement”), made and entered into on this ____ day of _____, 2020 (“Effective Date”), by and between the City of Yuma, Arizona, an Arizona municipal corporation (“Yuma”) acting through its Fire Department (“YFD”), and Rural Metro Fire Department, Inc., an Arizona corporation (“Rural/Metro”). Yuma and Rural/Metro may be referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Parties maintain equipment and personnel for the suppression of fires, the provision of emergency medical care, the stabilization and containment of other emergencies within each of the Parties’ own jurisdiction and area; and,

WHEREAS, the Parties have rendered mutual aid to one another in the past, and anticipate a continuing demand for such mutual aid and cooperation in the use of their personnel and equipment in the future, for the safety, health and welfare of the people of their jurisdictions during a time of emergency; and,

WHEREAS, the Parties desire to provide the highest level of services in conjunction with the most effective use of local fire agency resources working collaboratively through inter-agency cooperation; and,

WHEREAS, the Parties desire to augment the capabilities available in their various establishments, districts, agencies, and municipalities in the events of emergencies of a magnitude that has developed or appears probable to develop beyond the control of a single Party, which therefore requires the combined forces of the Parties; and,

WHEREAS, the jurisdictional boundaries of the Parties are located such that mutual assistance in a fire or other emergency is feasible; and,

WHEREAS, the Parties desire to render public safety assistance to one another in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual terms and conditions contained in this Agreement, the sufficiency of which is acknowledged, the Parties agree as follows:

AGREEMENT

1. Purpose. The purpose of this Agreement is to enhance the fire protection and emergency medical services capabilities within the respective jurisdictions of the Parties by facilitating mutual aid and assistance. The agency requesting mutual aid and assistance pursuant to this Agreement

is the “Requesting Agency” and the agency providing mutual aid and assistance pursuant to this Agreement is the “Responding Agency”.

2. Yuma Response to Rural/Metro Calls. Yuma, through its YFD, may respond to calls for help received from a chief fire officer of Rural/Metro; provided, however, that response is to be given only when YFD is not otherwise occupied and only when the services of the responding unit can be spared by YFD with a margin of safety to protect YFD’s customers and their property. Rural/Metro agrees not to call for such help unless: (a) the fire, medical emergency or rescue is of such a nature that it cannot be handled by Rural/Metro equipment due to resources being committed to other fires, medical emergencies or rescue simultaneously; or (b) due to the geographical distance to the call for service it would be in the interest of public safety to seek assistance from a closer provider.

3. Rural/Metro Response to Yuma Calls. Rural/Metro may respond to calls for help received from a chief fire officer of Yuma; provided, however, that response is to be given only when Rural/Metro is not otherwise occupied and only when the services of the responding unit can be spared by Rural/Metro with a margin of safety to protect Rural/Metro’s customers and their property. Yuma agrees not to call for such help unless: (a) the fire, medical emergency or rescue is of such a nature that it cannot be handled by Yuma equipment due to resources being committed to other fires, medical emergencies or rescue simultaneously; or (b) due to the geographical distance to the call for service it would be in the interest of public safety to seek assistance from a closer provider.

4. Mutual Aid Response To Request.

4.1. Upon request, the commanding officer of the Responding Agency receiving the request (or his or her designee), shall immediately take the following action:

4.1.1. Immediately determine if the Responding Agency has apparatus, equipment, and personnel available to respond to the Requesting Agency.

4.1.2. Determine what apparatus, equipment and personnel should be dispatched.

4.1.3. Determine the mission to be assigned in accordance with the operating plans and procedures established by the Parties to this Agreement.

4.1.4. In the event the needed apparatus, equipment, and personnel are available, forthwith dispatch such apparatus, equipment, and personnel as, in the judgment of the senior officer receiving the request for Mutual Aid, should be sent, with proper operating instructions.

4.1.5. In the event the needed apparatus, equipment, or personnel is not available, the officer shall immediately advise the Requesting Agency of such fact.

4.1.6. The Parties recognize that time is critical during an emergency and diligent efforts will be made to respond to a request for Mutual Aid as rapidly as possible, including any notification(s) that requested resources are not available.

4.2. The rendering of Mutual Aid under the terms of this Agreement shall not be mandatory and is contingent on the number of personnel and equipment available to the Responding Agency, the type and scope of the emergency, and the Responding Agency's prior obligations at the time of a request. The Responding Agency should immediately inform the Requesting Agency if, for any reason, that assistance cannot be rendered.

4.3. The Requesting Agency shall ensure appropriate fire fighter safety and rehabilitation services, including, but not limited to, appropriate medical care, food, water, fuel and other logistical support as necessary, are provided to all personnel, including the personnel of the Responding Agency, involved in the emergency response.

4.4. The Responding Agency shall report to the incident commander of the Requesting Agency to receive orders and direction from such official, provided that the Responding Agency's apparatus, equipment and personnel shall be under the immediate supervision of the officer in charge of the Responding Agency's apparatus, equipment, and personnel.

4.5. Each Party shall ensure that its personnel are properly equipped with all required personal protective equipment. Each Party shall retain ownership of any equipment it brings in performance of this Agreement and shall retain ultimate control of its personnel.

4.6. To ensure communications during emergency operations between fire departments belonging to a Party, interoperable radio frequencies for communications during Mutual Aid responses shall be made available.

4.7. Staff and Line Officers from each Party shall be trained in the Incident Command System ("ICS"), which shall be utilized for all Mutual Aid requests and responses.

4.8. The Responding Agency will be released by the Requesting Agency when the services of the Responding Agency are no longer required or in the event an emergency should occur in the Responding Agency's jurisdiction.

5. Local Obligations. It is mutually understood and agreed that this Agreement does not relieve any of the Parties from the necessary obligation of providing adequate fire protection and emergency services within its own jurisdiction. Each Party agrees that it shall use reasonable diligence in keeping its firefighting equipment in its possession up to adequate standards.

6. Billing Non-Subscribers; Agreement not to bill for Mutual Aid Fire Services. Nothing within this Agreement is intended to charge or modify Rural/Metro's legal right to invoice Non-Subscribers the market rate for the services Rural/Metro provides in its service area, however Rural/Metro agrees that it will not bill for any services, personnel, equipment or resources provided by YFD for mutual aid fire services, or for mutual aid fire services Rural/Metro provides within YFD's jurisdiction. Nothing within this Agreement is intended to change or modify Rural/Metro's and/or YFD's ambulance transport service charges approved through the Arizona Department of Health Services.

7. Term. This Agreement shall commence on the Effective Date and continue in force for three (3) years, at which time the Agreement will be reviewed by the Parties and may be renewed thereafter for an additional three-year period on the annual anniversary hereof unless terminated

by formal act of the governing body of either or both Parties to this Agreement. If terminated by only one Party, the terminating Party must provide written notice of intention to terminate; this Agreement will terminate 30 days after such notice is given to the other Party.

8. **Assignment.** No Party may assign this Agreement without first obtaining the prior, written approval of the other Party, which approval may be granted or withheld in the sole and unfettered discretion of such other Party.

9. **Applicable Law and Venue.** The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement, without regard to conflicts of laws principles. Prior to litigation in any court, the Parties agree to seek a mutually agreeable private or judicial mediator to attempt to resolve any dispute between the Parties. In the event mediation fails, the Parties submit to the jurisdiction of the Yuma County Superior Court or the United States District Court for the District of Arizona – Yuma Division, as appropriate.

10. **Rights and Remedies are Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default by the other Party.

11. **Employees/Volunteers.**

11.1. In connection with this Agreement, no employee or volunteer of either Party responding under this Agreement shall be deemed to be a loaned servant, employee, agent or volunteer of the requesting Party or any other Party. No Party shall assume any liability for the direct payment of any salary, wage, compensation, stipend or other payment to any of the other Party's personnel performing services hereunder or for any other liability not expressly assumed herein.

11.2. No agent, employee, or other representative of the Parties shall be deemed an agent, employee, or other representative of the other Parties for any reason.

11.3. Nothing in this Agreement limits any of the privileges and immunities of any Party, including, but not limited to, A.R.S. § 12-820 *et seq.* and A.R.S. § 9-500.02, as amended.

12. **Indemnity and Insurance.**

12.1. Each Party shall indemnify and hold harmless the other Party, its directors, officers, employees, and agents, pursuant to Arizona law, for, from and against all claims, demands, suits and costs including, but not limited to, costs of defense, reasonable attorneys' fees, witness fees of any type, losses, damages, expenses and liabilities, whether direct or indirect, and whether to any person including, but not limited to, employees of the Party, or to property, to which the other Party, its directors, officers, employees, or agents may be put or subject to by reason of (i) any act or omission by the respective Party, or any of its directors, officers, employees, agents, or invitees relating to the Party's actions under this Agreement by any person or entity, including but not limited to the Party and the Party's employees, agents, contractors, or invitees; or (ii) any failure on the part of the other Party, or any of its directors, officers, employees, or agents to fulfill its obligations

hereunder, but only to the extent that any loss, damage, expense, and liability is attributable to the negligent acts and/or misconduct of the Party, its directors, officers, employees, and agents. The provisions of this Section shall survive the revocation and/or termination of this Agreement.

12.2. Each Party shall secure and maintain in force during the life of this Agreement employer's liability insurance, commercial general liability, public liability and property damage and commercial automobile liability insurance, including contractual liability, with limits of not less than \$5,000,000.00 combined single limit per occurrence, together with statutory worker's compensation insurance, with limits not less than \$1,000,000 each accident/\$1,000,000 disease policy limit/\$1,000,000 disease each employee. All of the Party's policies required under this Agreement, except workers compensation, shall name and endorse the other Party as an additional insured, and all of the Party's policies required under this Agreement shall include an endorsed waiver of subrogation in favor of the other Party and be endorsed as Primary, Non-Contributory. The policies provided hereunder shall: (i) contain a provision whereby the insurance company agrees to give the other Party thirty (30) days' written notice before the insurance is cancelled; (ii) be written on an occurrence basis; (iii) provide an endorsement indicating the coverage is primary, without right of contribution from any insurance of the other Party; and (iv) be maintained with companies either rated no less than A- in the most recent edition of "Best's Insurance Guide" or otherwise reasonably acceptable to the other Party. Failure to provide required coverage and failure to comply with the terms and conditions of this Agreement shall not waive the contractual obligations herein. The amount of insurance required in this Section does not operate to limit the liability or indemnification responsibilities of the Parties as set forth in this Agreement.

Each Party shall retain the option of discharging this obligation by means of funded self-insurance. Should coverage be provided on a claims-made basis, the reporting period for claims shall be written so that it can be extended for three years after this Agreement is terminated for any reason.

13. Non-Discrimination. Rural/Metro warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. Rural/Metro shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, and the Age Discrimination Act of 1975. The Parties agree to comply with Arizona Governor's Executive Order 2000-4, and Arizona Governor's Executive Order 2009-09 - "Prohibition of Discrimination in Contracts, Non-Discrimination in Employment by Government Cooperators and Sub Contractors, Superseding Executive Order 99-4 and Amending Executive Order 75-5". Further, the Parties will not participate either directly or indirectly in the discrimination prohibited by the Genetic Nondiscrimination Act of 2008.

14. Legal Arizona Workers Act Compliance/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 papers of each of the others or any employee of either who performs work hereunder for the purpose of ensuring that the other Party is in compliance with the warranty set forth in this provision.

15. Non-appropriation/funding. This Agreement shall be subject to available funding for YFD, and nothing in this Agreement shall bind YFD to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

16. Administration. Unless the Parties otherwise agree, there shall be no lead agency responsible for the administration of this Agreement. This Agreement shall be administered jointly by the chief officers of the respective Parties.

17. Property Ownership. This Agreement does not provide for jointly owned property. All property presently owned or hereafter acquired by any Party to enable it to perform the services required under this Agreement, shall remain the property of that Party.

18. Amendments. No change or addition is to be made to this Agreement except by written amendment executed by the Parties. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of the Parties.

19. Notices, Demands, and Communications Between the Parties. All notices, demands 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: City Administrator
One City Plaza
Yuma, Arizona 85364

RURAL/METRO: Rural Metro Fire Department
Attn: Tim Soule, Fire Chief
2029 S. Arizona Ave
Yuma, AZ 85364

RURAL/METRO: American Medical Response
Attn: General Counsel
6363 S. Fiddlers Green Circle, St 1400
Greenwood Village, CO 80111

If either Party changes address, they 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.

20. **Entire Agreement/Integration/Severability.** This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. The provisions of this Agreement shall be deemed severable and the invalidity or enforceability of any provision shall not affect the validity or enforceability of the other provisions.
21. **No Third Party Beneficiaries.** This Agreement is made and entered into solely for the benefit of YFD and Rural/Metro. No other person shall have any right of action or claim under or by reason of this Agreement.
22. **No Partnership or Joint Venture.** It is clearly understood that each Party will act in its individual capacity and not as an agent, employee, partner, joint venturer, 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
23. **Non-Exclusive Agreement.** The Parties to this Agreement shall not be precluded from entering into similar agreements or first response agreements with other agencies.
24. **Conflicts of Interest.** The provisions of A.R.S. § 38-511 are applicable to this Agreement.
25. **Israel.** Pursuant to A.R.S. § 35-393.01, Rural/Metro certifies that Rural/Metro 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. However, the Parties recognize that the U.S. District Court for the District of Arizona has entered an injunction barring enforcement of this statute in *Mikkel Jordahl, et al., v. Mark Brnovich, et al.*, No. CV-17-08263- PCT-DJH, and unless and until the District Court's injunction is stayed or lifted, A.R.S. § 35-393.01 is unenforceable and Yuma will not take any action to enforce it.
26. **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.
27. **Headings.** The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.
28. **Compliance with All Laws.** Each Party shall comply with all applicable federal, state, and local laws, rules, regulations, 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.
29. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the 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, the Agreement will promptly be physically amended to make such insertion or correction.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their representatives duly authorized to execute this Agreement and bind their respective entities to the terms and obligations contained herein as of the Effective Date.

City of Yuma

By: _____
Philip Rodriguez
City Administrator

Rural/Metro

By: _____
Mike Ragone
Chief of Fire and Federal Services

ATTEST:

Lynda L. Bushong, City Clerk

APPROVED AS TO FORM:

Name: Danelle Kelling
Counsel for Rural/Metro

APPROVED AS TO FORM

Richard W. Files, City Attorney