

INTERGOVERNMENTAL AGREEMENT
TO ESTABLISH A STATEWIDE PUBLIC SAFETY RADIO SYSTEM
BETWEEN
THE CITY OF YUMA, YUMA COUNTY, COCHISE COUNTY, AND
ARIZONA DEPARTMENT OF PUBLIC SAFETY

This Intergovernmental Agreement to Establish a Statewide Public Safety Radio System (“Agreement”) is entered by the City of Yuma, Arizona (“City”), a municipal corporation of the State of Arizona, Yuma County, Cochise County, and Arizona Department of Public Safety (“DPS”). The City, Yuma County, Cochise County, and DPS 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 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 City and Yuma County jointly procured, maintain, operate, and use a multiple regional, multi-jurisdictional, and integrated public safety system through an intergovernmental agreement to create the Yuma Regional Communications System (“YRCS”); and,

WHEREAS, the YRCS has strived to implement industry best practices, develop interoperability partnerships from its inception, and have contributed significant resources from its member agencies to achieve these objectives; and,

WHEREAS, DPS has invested substantial resources to integrate with YRCS and expand their portion of the system to a significant geographical area of the State of Arizona; and,

WHEREAS, Cochise County has implemented a regional radio system and desires to integrate into the shared system with YRCS and DPS; and,

WHEREAS, each Party is referred to individually as the “Owner” of its existing system; and,

WHEREAS, the Parties desire to closely cooperate on topics related to a statewide public safety radio system of mutual benefit; and,

WHEREAS, the resulting system integrating each Owner’s existing system will provide a statewide public safety radio system that will be interoperable with local, state, federal, and tribal agencies throughout the State of Arizona;

NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the City, Yuma County, Cochise County, and DPS (“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 by the Parties as the “Owners” of the Arizona Statewide Public Safety Radio System (“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 an initial term until June 30, 2029, commencing upon the Effective Date. This Agreement will automatically renew for one (1) year periods unless sooner terminated pursuant to Section 12.

SECTION 4 – Additional Agencies: Other agencies or political subdivisions may become a user of the System upon approval of the Owner that will provide services to the agencies or political subdivisions desiring access.

SECTION 5 – Roles and Responsibilities:

A. Parties:

1. Parties will participate in the Arizona Statewide Radio System Owners working group to develop policies and procedures for the cooperative maintenance, operation, and use of the System.
2. Parties agree to advocate for greater use of the System by additional agencies through the State of Arizona and neighboring states.
3. Parties are responsible for maintaining their respective System zone core version that is compatible with all other Parties.
4. Parties are responsible for establishing and maintaining adequate backhaul network connections from their respective System zone core to all other Parties’ system zone cores.
5. Parties are entitled to System keys to maintain, operate, and use their portion of the System.
6. Parties are responsible for radio subscriber programming for their own Party’s or additional agencies’ subscriber radios.
7. Parties are responsible for System components within their respective System zone.
8. Parties are responsible for complying with all applicable Federal Communications Commission (FCC) rules and laws.
9. Parties shall prevent or mitigate adverse impact to the System resulting from external gateways, interfaces, bidirectional amplifier/distributed antenna systems, interference, or other harmful conditions.

B. YRCS:

1. The YRCS will maintain the root System zone, with certain System-wide licenses and functions hosted at this zone core.
2. The YRCS will maintain the System master key.
3. The YRCS will be responsible for servicing additional agencies' radios located or operating primarily within Yuma County and La Paz County.

C. DPS:

1. DPS will maintain certain System-wide licenses and functions at its zone core.
2. DPS will be responsible for servicing additional agencies' radios located or operating primarily statewide or outside the service area of YRCS or Cochise County.

D. Cochise County

1. Cochise County will be responsible for servicing additional agencies' radios located or operating primarily within Cochise County.

SECTION 6 –System Key Use:

A. Use:

1. Parties will be provided a System key necessary to program authorized radios on the System by the YRCS.
2. Parties will notify other Parties if System keys for additional manufacturer's radios are created for the System.
3. Parties will only program radios, talk groups, aliases, and unit identifiers ("IDs") authorized for the Party.
4. Parties will develop procedures to prevent duplicate assignment of unit IDs.
5. The System key will not be shared with any outside agency or third party.
6. A limited purpose System key may be shared with additional agencies, such as federal law enforcement, to permit programming for limited talk groups and unit IDs. Parties agree to limit the scope of limited purpose System keys to only what is necessary for an additional agency to program its radios on the System.
7. Parties and additional agencies with System keys will be responsible for any hardware costs related to the use of System keys.

B. Security:

- a. System keys for Parties will expire after two (2) years and will be reissued every 2 years to all Parties.

- b. Limited purpose Systems keys for additional agencies will expire annually and will be reissued annually to all authorized agencies.
- c. Parties and authorized additional agencies shall safeguard code plugs and encryption keys for the System.
- d. The System key will only be used by authorized personnel of a Party or additional agency.
- e. The System key will be stored in a physically secure location when not in use.

SECTION 7 – Licensed Frequencies Use: The Parties authorize each Party and additional agencies the use of its licensed frequencies for mobile stations within its area of operation. Each Party will be responsible for operating within the parameters of its FCC license and coordinating through the Statewide Public System Radio System Owners working group System use of mobile stations outside normal operating locations.

SECTION 8 – Cyber Security: The confidentiality, integrity, and availability of the System are critically important for each Party to address as part of a comprehensive risk management program. Parties should implement cyber security guidelines published by the Cybersecurity and Infrastructure Security Agency (CISA) and the National Institute of Standards and Technology (NIST) cybersecurity framework to manage risk. Parties agree to utilize the Arizona Statewide Public Safety Radio System Owners working group to cooperatively develop baseline security controls.

SECTION 9 – System Funding: The Parties will be responsible for all capital expenditures and operating expenses related to the portion of the System that they are the Owner. The Parties agree to upgrade or enhance the System only if adequate funds are available and approved by the governing bodies of the Parties. The Parties agree to work collaboratively to acquire grant funds to purchase equipment and expansion of the System for mutual benefit.

SECTION 10 – Items Not Covered: This Agreement does not include costs associated with the acquisition, installation, replacement, or repair of Party specific equipment or facilities. This Agreement does not include any contracts between a Party and a third-party vendor or agency.

SECTION 11 – Contracts and Procurement for System: Each Party will maintain all purchasing and support contracts for their portion of the System. Where it is advantageous to procure from a single Party, the Parties agree to designate a lead Party and develop procedures to jointly procure system components or support contracts.

SECTION 12 – Termination:

1. Any Party may terminate this Agreement, with or without cause, by providing sixty (60) days written notice prior to the expiration of the Agreement of its intent to terminate to the other Parties.
2. Pursuant to A.R.S. § 41-2546, all 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 a Party's obligations under this Agreement, then this Agreement shall automatically expire without penalty to any Party, after written notice to the other of the unavailability and non-appropriations of public funds. It is expressly agreed that Parties shall not 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 13 – Authorized Use: The Arizona Statewide Public Safety Radio System shall only be used by employees of a Party or its authorized additional agencies within the guidelines of the policies and procedures established by the Arizona Statewide Radio System Owners working group.

SECTION 14 – 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 15 - 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 16 - Conflict of Interest: This Agreement is subject to the conflict of interest and cancellation provisions of Arizona Revised Statutes, § 38-511, as amended.

SECTION 17 - 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 18 - Compliance with Law: The Parties must comply with all federal, state, and local laws and ordinances applicable to its performance under this Agreement.

SECTION 19 - 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 20 - 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 21 - Indemnification: Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

SECTION 22 – Insurance: The Parties 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 23 - 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:

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| City of Yuma Attn: Jeremy Jeffcoat, Asst. IT Director of the Yuma Regional Communications System 190 West 14 th Street Yuma, Arizona 85364 | Yuma County Attn.: Leon Wilmot, Sheriff 141 South 3 rd Street Yuma, Arizona 85364 |
| Cochise County Attn: Pablo Duarte, Radio System Administrator 1415 Melody Lane, Building D Bisbee, Arizona 85603 | Arizona Department of Public Safety Attn.: Jeremy Knoll, Wireless Systems Bureau Manager P.O. Box 6638 MS 2650 Phoenix, Arizona 85005-6638 |

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 24 - 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 25 - 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 26 - Assignment: This Agreement is not assignable without the mutual written consent of all Parties.

SECTION 27 – 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 28 - 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 29 - 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 30 - Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

SECTION 31 – 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 32 - 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 33 – 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 34 – 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 35 – 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 36 – 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.

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| <p>_____ Sheriff Leon Wilmot, Chairman Yuma Regional Communications System Council</p> <p>_____ Date</p> | <p>_____ Jeffrey Glover, Colonel Director Arizona Department of Public Safety</p> <p>_____ Date</p> |
| <p>_____ John D. Simonton Acting City Administrator City of Yuma</p> <p>_____</p> | <p>_____ Martin Porchas Chairman Yuma County Board of Supervisors</p> <p>_____ Date</p> |
| <p>ATTEST:</p> <p>_____ Lynda Bushong, City Clerk</p> <p>_____ Date</p> | <p>ATTEST:</p> <p>_____ Desiree Gunderman, Clerk of the Board</p> <p>_____ Date</p> |

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| <p>_____</p> <p>Frank Antenori, Chairman Cochise County Board of Supervisors</p> |
| <p>_____</p> <p>Date</p> |
| <p>ATTEST:</p> |
| <p>_____</p> <p>Laura Loewenheim, Clerk of the Board</p> |
| <p>_____</p> <p>Date</p> |

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.

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| <p>City of Yuma</p> | <p>Yuma County</p> |
| <p>_____</p> <p>Richard W. Files, City Attorney</p> | <p>_____</p> <p>Karolyn Kaczorowski, County Attorney</p> |
| <p>_____</p> <p>Date</p> | <p>_____</p> <p>Date</p> |
| <p>Arizona Department of Public Safety</p> | <p>Cochise County</p> |
| <p>_____</p> <p>Assistant Attorney General APPROVED AS TO FORM</p> | <p>_____</p> <p>Lori Zucco, County Attorney</p> |
| <p>_____</p> <p>Date</p> | <p>_____</p> <p>Date</p> |