

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF YUMA AND YUMA COUNTY AIRPORT
AUTHORITY CREATING A COOPERATIVE OPERATIONAL SECURITY PLAN**

This Memorandum of Understanding Creating a Cooperative Operational Security Plan ("MOU") is entered into by and between Yuma County Airport Authority ("Airport") and the City of Yuma ("City"), on behalf of itself and the Yuma Police Department ("YPD"). The Airport and City are referred to individually as "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Airport operates within the City; and

WHEREAS, the Airport has multiple flights to and from Phoenix, Arizona and Dallas Fort Worth, Texas daily; and

WHEREAS, the Code of Federal Regulations requires the Airport have an Airport Security Program to provide for the safety and security of persons and property on an aircraft from acts of criminal violence, aircraft piracy, and the introduction of unauthorized weapons, explosives, and incendiaries; and

WHEREAS, the operation of an airport can present unique security challenges, and security threats and issues occurring at the Airport can directly impact the City; and

WHEREAS, the Airport and City have a history of coordinating to create an Operational Security Plan to ensure the safety of the community and airport patrons and personnel; and

WHEREAS, the Airport and the City wish to continue the cooperative safety efforts.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the Parties hereby agree to the following terms and conditions:

I. EFFECTIVE DATE. The Effective Date is the date of the last signature to this MOU.

II. TERM, TERMINATION, AND RENEWAL. This MOU shall be for a term of five (5) years starting on the Effective Date ("Initial Term"). This MOU may be renewed for one (1) additional five (5) year period ("Renewal Term") upon written request by the Airport to the City made not less than thirty (30) calendar days prior to the date of expiration of the Initial Term. Renewal is discretionary for both Parties. This MOU may be terminated by either Party, with or without cause, upon thirty (30) calendar days' written notice to the other Party.

III. OPERATIONAL SECURITY PLAN.

A. The Parties shall meet and agree upon an Operational Security Plan not later than ninety (90) days following the Effective Date. The Chief of Police, or designee, is authorized to engage in this planning and sign the Operational Security Plan on behalf of the City.

B. The Operational Security Plan is incorporated by reference.

C. The release, disclosure, distribution, and availability of the Operational Security Plan shall be governed by 49 CFR 1542.101, and all requests to the City for its release shall be referred to the Airport Director.

D. The Parties shall review the Operational Security Plan annually and update if necessary. Updated Operational Security Plans are incorporated automatically, once signed by the Parties. The Parties may update the Operational Security Plan any time circumstances warrant or require a deviation from the current plan.

E. Each Party is responsible for the funds and equipment necessary to support the Operational Security Plan.

F. Each Party is responsible for its own costs arising from this MOU.

G. Each Party is responsible for ensuring their respective employees, agents, and representatives are aware of the requirements of the Operational Security Plan and are sufficiently trained and equipped to comply.

H. In the event a Party has insufficient staffing, training, or equipment to safely comply with the Operational Security Plan, that Party must notify the other Party within seventy-two (72) hours.

IV. RECORDS AND MEDIA STATEMENTS.

A. Records retained and maintained by the Airport are not records of the City for purposes of the Arizona public record laws.

B. Records retained and maintained by YPD and the City of Yuma are public records governed by Arizona state law.

C. YPD shall permit and have readily available all records relating to this MOU for examination and auditing by the Airport, to include their authorized agents or representatives. YPD shall maintain all such records in compliance with the State of Arizona retention schedules, or for a period of three (3) years after termination of this MOU, whichever is longer. In the event of a pending examination or audit, YPD shall ensure the records are retained until the examination or audit is complete.

V. NON-DISCRIMINATION. The Parties shall comply with the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 2009-09, as amended by State Executive Order 2023-01, which mandates equal access to employment opportunities. The Parties shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap, and the Americans with Disabilities Act.

VI. INDEMNIFICATION. The Parties are individually responsible for the conduct of their own operations and performance of obligations pursuant to this MOU and for any accidents, injuries, deaths, damage or loss of property, or other losses or damages arising out of the negligent or wrongful acts or omissions of its employees, officers, agents, and representatives acting within the course and scope of their employment and/or while performing the duties undertaken pursuant to this MOU.

VII. WAIVER. No provision in this MOU shall be construed, expressly or by implication, as waiver by the Parties of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this MOU. The failure of either Party to insist upon strict performance of any of the provisions of this MOU, or to exercise any of the rights or remedies provided by this MOU, or any delay in the exercise of any rights or remedies, shall not release either Party from any of the responsibilities or obligations imposed by law or by this MOU, and shall not be deemed a waiver of any right of either Party to insist upon strict performance of this MOU.

VIII. ENTIRE AGREEMENT. This MOU, in conjunction with the Operational Security Plan, as amended, constitutes the entire understanding of the Parties. There are no representations or MOUs other than those contained within this MOU. Any amendment or modification of this MOU shall be made only by a written instrument executed by authorized representatives of the Parties.

IX. COUNTERPARTS. This MOU may be executed in multiple counterparts, each of which shall constitute an original and together shall constitute the MOU.

X. SEVERABILITY. The Parties agree that should any part of this MOU be held to be invalid or void, the remainder of the MOU shall remain in full force and effect and shall be binding upon the Parties.

XI. GOVERNING LAW AND VENUE. This MOU shall be governed by the laws of the State of Arizona. All judicial proceedings arising from or related to this MOU shall be instituted and maintained in a court of competent jurisdiction in Yuma County, Arizona (or as may be appropriate, in the United States District Court for the District of Arizona, if, and only if, a Yuma County court lacks jurisdiction). The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action.

XII. CONFLICT OF INTEREST. This MOU is subject to cancellation pursuant to A.R.S. §38- 511, the pertinent provisions of which are incorporated herein.

XIII. NOTICES. All notices and correspondence between the Parties regarding this MOU shall be in writing and shall be deemed given if delivered in person, by 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:

<p>Yuma County Airport Authority Yuma International Airport Airport Director 2191 East 32nd Street, Suite 218 Yuma, Arizona (928) 726-5882</p>	<p>City of Yuma Captain of Support Services 1500 South 1st Avenue Yuma, Arizona 85364 (928) 373-4783 luis.marquez@yumaAZ.gov <i>or</i> Chief of Police 1500 South 1st Avenue Yuma, Arizona 85364 (928) 373-4700 thomas.garrity@yumaAZ.gov</p>
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In the event the contact information or notice destination of a Party changes, it shall notify the other Party of the new information, in writing, within five (5) business days. The Parties may designate other individuals in the Operational Security Plan to act as the point of contact for tactical operations and non-administrative actions.


XIV. RELATIONSHIP OF PARTIES. Each Party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one Party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. Each Party is responsible for the supervision and management of its personnel, to include the payment of wages and provision of benefits. The Parties shall not exchange personnel or funds pursuant to this MOU.

XV. EMPLOYMENT ELIGIBILITY. Each Party warrants, and shall require its subcontractors to warrant, that it is in compliance with all federal immigration laws and regulations that relate to its employees, and with A.R.S. §§ 41-4401 and 23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the MOU and is subject to penalties up to and including termination of this MOU. The Parties retain the legal right to inspect the papers of any Party or subcontractor employee who works on this MOU to ensure that the other Party or its subcontractors are complying with this warranty.

XVI. RIGHTS/OBLIGATIONS OF PARTIES ONLY. The terms of this MOU are intended only to define the respective rights and obligations of the Parties. This MOU shall not create any rights or duties in favor of any potential third-party beneficiary or other person, agency, or organization.

XVII. AUTOMATIC INCORPORATION. All applicable Federal, State, and local laws, court orders and decisions, Executive Orders, rules and regulations not specifically referenced herein are deemed automatically incorporated.

XVIII. AUTHORITY OF SIGNATORIES. The persons executing this MOU on behalf of the Parties represent and guarantee they are authorized to do so, on behalf of themselves and the entity they represent, and avow to present this MOU to their governing bodies as applicable. Further representation is made that due diligence has occurred, and all necessary internal procedures and processes, including compliance with the open meeting law where necessary, have been satisfied to legally bind the entity to the terms of this MOU.

<p>City of Yuma</p> <p>_____</p> <p>John D. Simonton Acting City Administrator Date: _____</p>	<p>Yuma County Airport Authority</p>  <p>_____</p> <p>Gladys Brown Airport Director Date: <u>APRIL 25, 2024</u></p>
<p>Yuma Police Department</p> <p>_____</p> <p>Thomas Garrity Chief of Police Date: _____</p>	
<p>ATTEST</p> <p>_____</p> <p>Lynda L. Bushong City of Yuma Clerk Date: _____</p>	
<p>APPROVED AS TO FORM</p> <p>_____</p> <p>Richard W. Files City Attorney Date: _____</p>	