

**OUTSIDE AGENCY AGREEMENT
GREATER YUMA ECONOMIC DEVELOPMENT CORPORATION**

THIS Agreement is entered into by and between the CITY OF SAN LUIS, an Arizona municipal corporation, hereinafter called "CITY" and the GREATER YUMA ECONOMIC DEVELOPMENT CORPORATION, an Arizona nonprofit corporation, hereinafter called "Greater Yuma Economic Development Corporation."

WHEREAS, the CITY is interested in obtaining for its benefit the knowledge and experience of Greater Yuma Economic Development Corporation to perform special professional services for the development of the CITY'S economic base and Greater Yuma Economic Development Corporation is interested in providing such services.

NOW, THEREFORE, the parties hereto, in consideration of the above recitals and the following mutual covenants and stipulations, agree as follows:

I. GREATER YUMA ECONOMIC DEVELOPMENT CORPORATION AGREES TO PERFORM THE FOLLOWING:

- A. The CITY'S goals for Greater Yuma Economic Development Corporation shall be as follows:
 - 1. Work jointly with the CITY economic development representative to promote and strengthen regional economic development cooperation and coordination;
 - 2. Support a strong business climate and promote the image of the City of San Luis for relocation of business to the CITY;
 - 3. Qualify and assist companies to locate in the City of San Luis;
 - 4. Build a strong and effective regional economic development organization;
 - 5. Promote increases in private sector financing, support and participation;
 - 6. Identify and develop through substantial effort at least 10 qualified prospects for location in the City of San Luis.
 - 7. Encourage the jobs for City of San Luis residents and targeted socio-economic persons or groups within the City of San Luis.
 - 8. Maintain a structured Business, Retention and Expansion program, making a minimum of 15 completed survey calls annually.
- B. In furtherance of the foregoing goals, Greater Yuma Economic Development Corporation agrees as follows:

1. Implement a budget and action plan. Greater Yuma Economic Development Corporation shall use its best efforts to expend funds and implement the budget and action plan, as adopted by Greater Yuma Economic Development Corporation Board of Directors (Board). Greater Yuma Economic Development Corporation shall inform the CITY of changes in the adopted budget and action plan that will materially affect or alter the priorities established in each.
2. Work in direct partnership with the CITY'S economic development representative on the creation and implementation of a marketing plan. Greater Yuma Economic Development Corporation shall from time to time solicit the input of CITY representatives on the formulation of future marketing strategies and advertisements.
3. Promote and strengthen regional economic development cooperation and coordination. In order to promote and strengthen regional economic development cooperation and coordination in Yuma County, Greater Yuma Economic Development Corporation shall:
 - (a) Participate with national, state and regional economic development organizations involved in national and statewide economic development, and coordinate the Yuma County component thereof, and
 - (b) Coordinate and work in conjunction with the CITY economic development representative(s) to assist with the CITY'S participation in state and international economic development initiatives.
4. Qualify and assist companies considering locating in the greater Yuma area. In order to qualify and assist new companies Greater Yuma Economic Development Corporation shall:
 - (a) Use its best efforts to continue to identify and through substantial efforts develop at least 10 out-of-city prospects for location in the City of San Luis in targeted economic clusters;
 - (b) Continue to provide all qualified prospects with coordinated professional services;
 - (c) Update and maintain the database of available properties;

- (d) Coordinate and work with CITY economic development representative(s);
 - (e) Provide the CITY'S Board representatives and economic development representative(s) monthly activity reports, and
 - (f) Engage the City of San Luis economic development representative(s) in all site visits of companies for location within the City of San Luis, including the need for a predevelopment meeting, prior to any proposal being made.
5. Develop a strong effective regional development organization. In order to promote the development of a strong and effective regional economic development organization, Greater Yuma Economic Development Corporation shall:
- (a) Use its best efforts to secure public and private sector funding to achieve its goals successfully;
 - (b) Professionally develop Greater Yuma Economic Development Corporation staff;
 - (c) Operate Greater Yuma Economic Development Corporation in accordance with Greater Yuma Economic Development Corporation articles of incorporation and bylaws, and all amendments thereto, and
 - (d) Uphold and support policies of the City of San Luis with each client of Greater Yuma Economic Development Corporation and explore economic development solutions that will uphold the goals of City of San Luis policies.
6. Develop and maintain strong private sector support and participation. In order to achieve the goals set forth in the marketing of the region, Greater Yuma Economic Development Corporation shall continue to secure private sector contributions.
7. Secure bona fide leads such as startups or expanding manufacturing companies to lease the San Luis Business Incubator. A minimum of two manufacturing companies shall be secure for the two larger suites at the business incubator the first year. Continue to assist in recruiting companies as vacancies arise by assisting in building a waiting list as potential tenants.

- C. Administrate funding for a regional economic development effort with the City of San Luis and San Luis Rio Colorado, Sonora as a defined bi-national region.
- D. Hire and/or retain, at its discretion, a President/CEO and necessary staff to carry out the tasks described herein.
- E. Continue the program of identifying, contacting and attracting capital investors and other outreach services for business, commercial, and industrial development within the City of San Luis. This program is to be accomplished through (1) visitations and presentations to business persons and manufacturers who have indicated an interest in locating in the City of San Luis, and (2) providing assistance to all prospects, including local investors and developers, in satisfying the need for information to facilitate the potential expansion and/or location of businesses, commercial and industrial facilities, or projects in the City of San Luis area.
- F. Continue to expand the system of collecting demographic statistics and economic indicators needed by manufacturers, distributors, retailers, and developers in deliberations regarding the City of San Luis as a potential site for business, commercial, and industrial development.
- G. Continue printing, publishing, and distributing of documented demographics and other information concerning the City of San Luis, as a resource document and sales tool to attract manufacturers, distributors, retailers and developers.
- H. Expend its resources to recruit, for relocation and expansion, businesses that will meet or exceed environmental rules and regulations of local, state, regional, and national governments. Greater Yuma Economic Development Corporation shall consider any actual or potential environmental impact or threat the business may have to the community. Greater Yuma Economic Development Corporation shall consult with the CITY economic development representative(s) or the City Administrator or designee regarding the hazardous material environmental impacts of prospective businesses. Greater Yuma Economic Development Corporation will coordinate information for potential businesses of the city code and ordinance requirements for a hazardous material impact review.
- I. Cooperate with the greater San Luis community in efforts and activities to expand economic opportunities within the region, downtown, port of entries and industrial parks.
- J. Maintain accurate records of CITY monies received and disbursed. Greater Yuma Economic Development Corporation shall maintain an accounting system which complies with generally accepted accounting principles and

with the AICPA Audit Guide for Non-Profit Corporations and which accounts for all funds provided by the CITY pursuant to this Agreement.

- K. Annually provide the CITY with names and addresses of officers or directors, and copies of bylaws, and articles of incorporation and amendments thereto of Greater Yuma Economic Development Corporation. In the event of any change of officer and/or director, bylaws or articles of incorporation, Greater Yuma Economic Development Corporation shall also provide notice of said change to CITY within 30 days thereafter. All documentation required hereinafter shall be reviewed by the Greater Yuma Economic Development Corporation Board of Directors prior to submission and shall be filed with the City Administrator within thirty (30) days after the end of the period stated. The required reports and records are set forth as follows:
 - 1. Monthly financial statement as presented to the Board of Directors.
 - 2. A semi-annual program status report regarding monies received. This report shall contain analytical memoranda which:
 - (a) Describes results of activities and expected achievements.
 - (b) Describes program effectiveness.
- L. Provide a brief monthly status report to CITY representatives at its monthly Board meeting.
- M. Provide notice of all meetings to the City Administrator, and/or his designee, who may attend all meetings of the Board of Directors.
- N. Make reports at meetings of the City Council no less than twice annually on the progress of its work program.

II. THE CITY SHALL PROVIDE THE FOLLOWING:

- A. Evaluate Greater Yuma Economic Development Corporation performance relative to the performance criteria set forth herein in order to assess the impact of the efforts of Greater Yuma Economic Development Corporation. Any additional information desired by the CITY which is relevant and necessary to the CITY'S evaluation shall be made available by Greater Yuma Economic Development Corporation.
- B. Pay Greater Yuma Economic Development Corporation for the Fiscal Year 2015-2016, unless terminated as provided herein, that amount which is stated herein. Such sum is to be disbursed on a prorata quarterly basis.

- C. The method of payment shall be as follows:
 - 1. Greater Yuma Economic Development Corporation shall submit a request for payment quarterly to the CITY'S Director of Finance, pursuant to approval of Greater Yuma Economic Development Corporation annual budget by its Board of Directors.
 - 2. Upon approval of the request for payment by the CITY, the CITY'S Director of Finance shall make payments within 15 days to Greater Yuma Economic Development Corporation, except as provided in subsection C.

- D. The CITY may withhold payment, in whole or in part, as may be necessary to protect it from loss on account of:
 - 1. Greater Yuma Economic Development Corporation's failure to render acceptable services as stated in the performance criteria of Section I. The City Administrator, or designee, shall investigate and monitor the quality of Greater Yuma Economic Development Corporation services in order to determine whether such services are acceptable. Upon determination by the City Administrator that acceptable services are not being rendered, the City Administrator shall notify Greater Yuma Economic Development Corporation of the specific deficiencies in performance and provide a reasonable time for the Greater Yuma Economic Development Corporation to rectify said deficiencies. In no event shall such time to rectify exceed 90 days. Whether or not Greater Yuma Economic Development Corporation services are acceptable will be the CITY'S exclusive decision.
 - 2. Greater Yuma Economic Development Corporation's failure to supply information, records or reports as required.
 - 3. Greater Yuma Economic Development Corporation's failure to comply with documentation requirements or accounting procedures.
 - 4. Greater Yuma Economic Development Corporation's failure to allocate money received from the CITY for the purposes described herein.

III. FINANCIAL SUPPORT AND TERM OF AGREEMENT:

- A. The term of this Agreement shall be for one year commencing on July 1, 2015 and ending on June 30, 2016.

- B. The CITY agrees to pay Greater Yuma Economic Development Corporation an amount of \$32,500 for services to be provided by Greater Yuma Economic Development Corporation pursuant to the Agreement during Fiscal Year 2015-2016.
- C. Funding of this Agreement shall be subject to the annual appropriation of funds for this activity by the City Council pursuant to the required budget process of the CITY.
- D. Renewal of this Agreement beyond the current agreement will be contingent upon Greater Yuma Economic Development Corporation performance hereunder. If Greater Yuma Economic Development Corporation's performance does not, in all material respects, meet the minimum requirements as described in Section I. A. through N. of this Agreement, this Agreement may not be renewed by the City Council.
- E. Nothing herein shall preclude the CITY from contracting separately with Greater Yuma Economic Development Corporation for services to be provided in addition to those to be provided hereunder, upon terms and conditions to be negotiated by the CITY and Greater Yuma Economic Development Corporation.

IV. TERMINATION:

This Agreement may be terminated by the CITY before the end of the term set forth herein if any of the following occur:

- A. Without cause at any time with 90 days notice whenever the CITY determines that such termination is in the best interests of the CITY.
- B. By mutual written consent of both parties hereto.
- C. For breach or default by Greater Yuma Economic Development Corporation of any of its obligations set forth herein.

V. INDEMNIFICATION:

To the fullest extent permitted by law Greater Yuma Economic Development Corporation shall indemnify and hold harmless the CITY, its agents and employees from and against all claims, damages, losses, expenses, and injury to property or persons (including death), including but not limited to attorney's fees, caused in whole or in part by any negligent act or omission of Greater Yuma Economic Development Corporation, or anyone directly or indirectly employed by Greater Yuma Economic Development Corporation for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder, whether authorized by Greater Yuma Economic Development Corporation or not,

including theft by Greater Yuma Economic Development Corporation or any of its officers, agents, employees, guests, patrons, invitees or trespassers, arising out of or resulting from this Agreement.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

VI. INSURANCE:

Greater Yuma Economic Development Corporation shall, at its own expense, secure and maintain during the term of this Agreement commercial general liability insurance including bodily injury, property damage, contractual, personal injury, and products/completed operations. Liability limits shall be no less than \$2,000,000 per occurrence combined single limit and shall be primary and not contributory to any other coverage available to the CITY or its employees. The CITY shall be named as an additional insured, and certificates of insurance with endorsements for the requirements herein shall be delivered to the CITY prior to the commencement of this Agreement. Failure to provide required coverage and compliance with the terms and conditions of this Agreement shall not waive the contractual obligations herein. If the policy or policies are canceled by the insurance company or Greater Yuma Economic Development Corporation during the term of this Agreement, Greater Yuma Economic Development Corporation and insurance company shall provide ninety (90) days written notice prior to the effective date of such cancellation or termination to the CITY.

VII. GENERAL CONDITIONS:

A. Nondiscrimination. Greater Yuma Economic Development Corporation shall not discriminate against any person on the basis of race, religion, color, age, sex, disability, or national origin in the performance of this Agreement, and shall comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354 (1964), and with the Americans with Disabilities Act of 1990. In addition, Greater Yuma Economic Development Corporation shall include similar requirements of subcontractors in any contracts entered into for performance of Greater Yuma Economic Development Corporation obligations under this Agreement.

B. Financial Review.

1. Greater Yuma Economic Development Corporation shall make its financial records available for inspection by the CITY, or its designee, upon reasonable notice during normal business hours of the CITY.
2. If the CITY desires a financial audit by a certified public accountant of Greater Yuma Economic Development Corporation financial

records to verify use of the funds of the organization according to the terms and conditions of this Agreement, Greater Yuma Economic Development Corporation shall cooperate fully in the performance of such audit. Greater Yuma Economic Development Corporation shall not be responsible for the cost of such an audit if requested by the CITY and shall be entitled to a copy of any resulting reports that are received by the CITY.

- C. Compliance with Law. Greater Yuma Economic Development Corporation shall comply with all federal, state, and local laws and ordinances applicable to its performance under this Agreement. In addition, Greater Yuma Economic Development Corporation shall include similar requirements of subcontractors in any contracts entered into for performance of Greater Yuma Economic Development Corporation obligations under this contract.
- D. Binding on Successors. The covenants and conditions herein contained apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto.
- E. Attorney Fees and Costs. In the event any action, suit or proceeding is brought for failure to observe any of the terms, covenants, or provisions of this Agreement, the prevailing party shall be entitled to recover as part of such action or proceeding, all litigation, arbitration, and collection expenses, including, but not limited to, witness fees, court costs, and reasonable attorney fees.
- F. Laws Governing. This Agreement shall be governed by the laws of the State of Arizona, as to validity, interpretation and performance.
- G. Venue. Any and all suits for any and every breach of this Agreement, or other judicial proceeding for the enforcement or interpretation of this Agreement shall be instituted and maintained in Superior Court in Yuma County, Arizona.
- H. Waiver. The failure of either party to insist upon strict performance of any of the provisions of this Agreement, or to exercise any of the rights or remedies provided by this Agreement, 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 Agreement, and shall not be deemed a waiver of any right of either party to insist upon strict performance of this Agreement.
- I. Severability. If any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Arizona, the validity of the remaining portions or provisions shall not be affected,

and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

- J. Integration. This Agreement contains the entire agreement between the parties, and no oral or written statement, promises, or inducements made by either party or agent of either party that is not contained in this written Agreement, or specifically referred to in this written Agreement shall be valid or binding; and this contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed hereon.
- K. No Partnership. Nothing in the Agreement is intended or shall be construed to constitute a partnership or joint venture between the parties and neither party shall be deemed the principal, agent, officer, or member of the other.
- L. Time of the Essence. Time is of the essence in this Agreement. Unless otherwise specifically provided in this Agreement, any consent to delay in the performance of Greater Yuma Economic Development Corporation of any obligation shall be applicable only to the particular transaction to which it relates, and it shall not be applicable to any other obligation or transaction.
- M. Dispute Resolution. If the parties mutually agree, claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof may be subject to and decided by arbitration in accordance with the Arizona Uniform Rules of Procedure for Arbitration currently in effect. Request for arbitration shall be filed in writing with the other party to this Agreement.
- N. Conflict of Interest. This contract shall be subject to the Conflict of Interest provisions of A.R.S. § 38-511, as amended.
- O. Environmental Conditions. Greater Yuma Economic Development Corporation shall take all steps necessary to ensure its compliance with all applicable federal, state, and local environmental laws, regulations and ordinances, and shall indemnify and hold the CITY harmless for any remediation required and from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death to any person or damage to any property or the environment of any nature whatsoever arising out of violations of such laws, regulations and ordinances.
- P. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered upon personal delivery, or mailing by United States mail, postage prepaid, registered or certified, return receipt, addressed as follows:

To CITY:
City of San Luis
Attn: City Administrator
P.O. Box 1170
San Luis, Arizona 85349

To GYEDC:
Greater Yuma Economic
Development Corporation
Attn: Chairman
899 E Plaza Circle Ste 2
Yuma, Arizona 85364

- Q. Compliance with Federal and State Laws. Greater Yuma Economic Development Corporation 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. § 23-214 relating to verification of employment eligibility.

A breach of this clause shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of this Agreement.

The CITY retains the legal right to inspect the papers of any Greater Yuma Economic Development Corporation or subcontractor employee who works on this Agreement to ensure that Greater Yuma Economic Development Corporation or subcontractor is complying with this warranty.

- R. Employees, directors, board members, officers, and volunteers of the Greater Yuma Economic Development Corporation are prohibited from engaging in any political activity with respect to candidates for political office beyond the private expression of personal opinion, registering as a member of a political party, signing petitions and voting in any special, general, or primary election. No employee, director, board member, officer, or volunteer shall solicit any contribution in cash or service from any Greater Yuma Economic Development Corporation employee, director, board members, officer, or volunteer to support any candidate for public office. No employee, director, board member, officer, or volunteer shall use the name of the Greater Yuma Economic Development Corporation, or use their affiliation with the Greater Yuma Economic Development Corporation, to engage in any political activity of any kind or to solicit any contribution in cash or services to support any candidate for public office. If an employee, director, board member, officer, or volunteer should engage in said activities, they shall make it clear that they are doing so in their personal and private capacity, and are not associated with the Greater Yuma Economic Development Corporation in any way while engaging in said activity. Employees, directors, board members, officers, and volunteers will refrain from engaging in any political activity while attending or participating in the Greater Yuma Economic Development Corporation function or event.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this ____ day of _____, 2015.

CITY OF SAN LUIS , a municipal corporation

GREATER YUMA ECONOMIC
DEVELOPMENT CORPORATION, an
Arizona nonprofit corporation

Robert A. Eads
City Administrator

Chairman

ATTEST:

President

Sonia Cornelio
City Clerk

Date

APPROVED AS TO FORM:

City Attorney