

**TERMS AND CONDITIONS FOR
YUMA REGIONAL COMMUNICATION SYSTEMS MEMBER AGENCIES**

PLEASE READ CAREFULLY! THIS IS A LEGAL DOCUMENT THAT AFFECTS YOUR LEGAL RIGHTS

City of San Luis, Arizona (“Agency”) acknowledges, understands, and agrees to comply with the following terms and conditions (referred to as “Terms and Conditions”) in order to become a member of the Yuma Regional Communications System (referred to as “YRCS”). The Agency and the YRCS are sometimes referred to individually as the “Party” and collectively as the “Parties”.

1. **YRCS Bylaws:** The Agency shall comply with and be bound by all the YRCS bylaws, which are attached and incorporated into these Terms and Conditions by reference. The Agency shall also comply with and be bound by any other written YRCS guidelines, policies, rules, and regulations (collectively referred to as “YRCS Bylaws”).
2. **YRCS Council Structure:** The YRCS is governed by YRCS Council that consists of representatives from the City of Yuma (the “City”), Yuma County (the “County”), and other governmental public safety agencies as set forth in the YRCS Bylaws.
3. **YRCS Council Voting Rights:** The Agency shall only vote and participate in YRCS meetings as set forth in the YRCS Bylaws.
4. **YRCS Project Manager:** The Agency acknowledges and agrees that the YRCS Project Manager (i) is responsible for and has authority over the YRCS personnel and YRCS funds; (ii) assists with applying for and managing grants and federal reporting requirements associated with YRCS projects; and (iii) is responsible for communicating and informing the YRCS Council of any issues or concerns that may occur regarding the operation, support, and funding of the YRCS.
5. **YRCS Funding and System Access Fees:**
 - a. **Grants:** The Agency agrees to make reasonable efforts to secure grant funds to purchase and maintain YRCS equipment and support YRCS personnel.
 - b. **Annual Fees and Administrative Costs:** The Agency agrees to pay all fees set forth in this Section that are applicable to the Agency (the fees set forth in this Section are collectively referred to as the “Fees”). The Fees will fund for the following:
 - i. **Personnel:** Full time and/or part time technical personnel or other support personnel required to manage and maintain YRCS equipment, databases, and automated business applications used by the YRCS members. Fees may also be used for materials, supplies, travel, and training costs for personnel who support the YRCS.
 - ii. **YRCS Infrastructures:** Costs associated with the installation, support, maintenance, upgrade, replacement or repair of the YRCS infrastructure, such as routers, repeaters, and microwave equipment, security components, application servers, back-up systems, generators, cabling, antennas, and similar equipment.
 - iii. **Annual License and Vendor Subscription Costs:** Annual costs associated with vendor maintenance/warranty costs or hardware/software upgrades or license and subscription fees for the YRCS and associated end-users.
 - iv. **Vehicles and Test Equipment:** Costs associated with the purchase of vehicles and test equipment to be used for the support of all YRCS activities such as installation, support, and maintenance.
 - c. **Fee Due Date and Fee Adjustment:** The Agency shall pay all of its applicable Fees on or before July 30th of each year it participates in the YRCS. The YRCS Council shall review and set each of the Agency’s Fees annually no later than January 31st each year. The YRCS Project Manager shall give written notice to the Agency of the Agency’s Fee for the upcoming fiscal year within ten (10) days after the YRCS Council sets the Agency’s Fees for the upcoming fiscal year. After the YRCS Council sets the Agency’s Fees for the upcoming fiscal year, the Agency’s Fees will not be adjusted until the next fiscal year unless an unexpected incident occurs that is beyond the reasonable control of the YRCS members and the YRCS Council approves an emergency fee adjustment. The YRCS Council shall increase the Agency’s Fees if, at any time, there is a negative account balance of the YRCS fund. If the YRCS Council increases the Agency’s Fees at any time during the fiscal year, the YRCS Council shall provide written notice to the Agency of the change to the Fees no less than sixty (60) days prior to the due date of the increased Fees.

If the Agency joins the YRCS after July 1st, the Agency’s Fees for the Agency’s initial fiscal year will be prorated for the remainder of that fiscal year.
 - d. **Unused Funds:** All unused funds will be added to the contingency fund as designated by the YRCS Council. The YRCS Council can use the contingency fund to fund any approved system upgrades that it deems necessary.
 - e. **Billing and Payments:** The YRCS Project Manager will bill the Agency for the Agency’s annual Fees no later than July 1 of each year the Agency participates in the YRCS. The City of Yuma will receive and disburse payments for equipment and maintenance and provide accounting for the Fees.

- f. **Agency Fees:** The Agency shall pay the following fees, unless the fee is inapplicable to the Agency:
- i. **First-Year Fee:** The Agency shall pay a one-time, first-year fee if the YRCS Board determines in writing that the Agency is not contributing any equipment or resources to the YRCS. If applicable, the first-year fee is due prior to the Agency receiving access to the YRCS.
 - ii. **YRCS System Access:** The Agency shall pay an annual YRCS system access fee (“Access Fee”) for each of the lines of business that YRCS supports: Radio, CAD/RMS/Jail or Administration of Yuma County 911 Emergency System. The Agency’s Access Fee will be based upon YRCS personnel costs attributable to the Agency, maintenance and support costs attributable to the Agency, and the equipment and license quantities in use by the Agency on the date Agency joined YRCS or during the previous year.
 - iii. **Radio:** The Agency shall pay an annual radio fee for each radio the Agency connects to the YRCS systems. The radio fee permits the Agency to use the Regional Public Safety Grade P25 700/800MHz Radio System on per radio basis, and covers all labor performed by YRCS personnel for annual preventive maintenance, repairs, and programming for each radio. The Agency agrees and understands that Agency is solely responsible for all parts, material, and shipping costs to and from a manufacturer attributable to the Agency’s radios, and repairs performed by non-YRCS personnel. If the Agency has radio console equipment, the Agency’s radio fee also covers labor by YRCS personnel to support the Agency radio console equipment, but not include the cost of any parts, materials, or associated shipping costs. The Agency understands and agrees that the radio fee does not cover the replacement costs for aging, damaged, or stolen radios/equipment, and that such costs are the sole responsibility of the Agency. For purposes of this section, “radio” means a portable, mobile or control station radio.
 - iv. **Regional Public Safety Software Data System (CAD/RMS/JMS):** The Agency shall pay an annual regional public safety software data system fee (“Data System Fee”) for each MSP or mobile license issued to or in use by the Agency. The Data System Fee covers all Tyler Technologies and third-party software user license fees, and support of all software and hardware performed by YRCS personnel. The Agency is solely responsible for any and all costs for parts, material, shipping to and from the manufacturer, and any repairs performed by non-YRCS personnel. The Data System Fee allows the agency the use of the Regional Public Safety CAD/RMS/JMS System on per license basis.

The Agency understands and agrees that the Data System Fee does not cover the costs for the replacement of aging, damaged, or stolen equipment, and that such costs are the sole responsibility of the Agency.

- v. **Yuma County 911 Emergency System:** The Agency shall pay an annual Yuma County 911 Emergency System fee (“911 Fee”). The 911 Fee covers the Agency’s costs associated with the administration and management the Yuma County 911 Emergency System and associated data structures used in support of 911 services. The Agency’s 911 Fee shall be proportional based on the population of the Agency’s jurisdiction as compared to the total population of Yuma County. Population estimates utilized for the purposes of determining cost shares will be the Department of Economic Security official estimates in effect at the time the 911 fee is requested.

If the Agency classified as a Public Safety Answering Point (PSAP), the Agency shall contribute an additional \$7,500.00 annually or the then current prevailing rate as set by the Yuma County 911 Administrator, toward the cost of administering the Yuma County 911 Emergency System.

- vi. **Brazos E-Citation:** If the Agency uses the Regional Public Safety Public Safety CAD/RMS/JMS System and has a license(s) to the E-Citation solution, the Agency shall pay an E-Citation fee for each license issued to the Agency. The E-Citation fee covers the Agency’s software user license fees, and support of all software and hardware performed by YRCS personnel. The Agency is solely responsible for any and all costs for parts, material, shipping to and from the manufacturer, and any repairs performed by non-YRCS personnel.

The Agency understands and agrees that the E-Citation fee does not cover the costs for the replacement of aging, damaged, or stolen equipment, and that such costs are the sole responsibility of the Agency.

- vii. **Jail Management System (JMS):** If the Agency participates in the Regional Public Safety CAD/RMS/JMS System and the Jail Management System, the Agency shall pay a jail management system fee (“Jail Fee”) for each license issued to the Agency. The Jail Fee covers all Tyler Technologies and third-party software user license fees, and support of all software and hardware performed by YRCS personnel. The Agency is solely responsible for any and all costs for parts, material, shipping to and from the manufacturer, and any repairs performed by non-YRCS personnel.

The Agency understands and agrees that the Data System Fee does not cover the costs for the replacement of aging, damaged, or stolen equipment, and that such costs are the sole responsibility of the Agency.

- viii. **Zetron Fire Station Alerting:** If the Agency participates in Fire Station Alerting, the Agency shall pay the actual total hourly costs of YRCS personnel, and the cost of any and all equipment and material purchased by YRCS to support the Agency. The Agency is solely responsible for any and all costs for parts, material, shipping to and from the manufacturer, and any repairs performed by non-YRCS personnel. The Agency understands and agrees that any fees paid under this subsection do not cover the costs for the replacement of aging, damaged, or stolen radios/equipment, and that such costs are the sole responsibility of the Agency.

- ix. **COPLINK:** If the Agency uses the Regional Public Safety Public Safety CAD/RMS/JMS System and has a license(s) to the COPLINK solution, the Agency shall pay a COPLINK fee for each license issued to the Agency. The COPLINK fee covers the Agency’s software user license fees, and support of all software and hardware performed by YRCS personnel. The Agency is solely responsible for any and all costs for parts, material, shipping to and from the manufacturer, and any repairs performed by non-YRCS personnel. The Agency understands and agrees that the COPLINK fee does not cover the costs for the replacement of aging, damaged, or stolen equipment, and that such costs are the sole responsibility of the Agency.

- x. **Other YRCS Fees:** The Agency shall pay annual fees if the YRCS Board determines in writing that the Agency is not contributing any equipment or resources to the YRCS but requires YRCS support in the form of IT services, project management and any labor that Agency receives from the YRCS. The Agency’s Other YRCS Fee will be based upon YRCS personnel costs attributable to the Agency, maintenance and support costs attributable to the Agency, and the equipment and license quantities in use by the Agency on the date Agency joined YRCS or during the previous year.

- 6. **Access Rights and Privileges:** If the Agency fails to pay all of the required Fees within ninety (90) days after the Fees become due, the Agency immediately forfeits all rights and privileges covered under these Terms and conditions and the Agency shall lose access to and use of the YRCS. The Agency shall retain ownership of any portable and mobile radio equipment, servers, or computer hardware and software and accessories purchased by the Agency, unless such equipment, hardware, or software was purchased with grant funds or obtained on behalf of the YRCS. The Agency shall return all equipment purchased with grant funds or obtained on behalf of the YRCS to the YRCS.

- 7. **Items Not Covered by Fees:** The Fees described in Section 7 above do not include costs associated with the replacement or repair of Agency specific YRCS equipment, such as portable and mobile radios, hand held devices, laptop or desktop computers, and associated accessories, that are not covered under existing warranties. The Agency is solely responsible for all shipping and outside vendor labor and parts costs associated with repair or replacement of the Agency specific equipment described in this Section.

- 8. **Contracts and Procurement for YRCS:** The City of Yuma shall procure all purchasing and support contracts for the YRCS system. The procurement of YRCS equipment must comply with all applicable City and State procurement laws and regulations. The YRSC Project Manager will be responsible for maintaining and overseeing the purchasing and support contracts for all services required for the YRCS.

- 9. **Term:** The Agency shall become a member of the YRCS upon (i) execution of these Terms and Conditions and (ii) approval by the YRCS Council, as indicated by the execution of the YRCS Chairperson below. The Agency shall remain a member of the YRCS for five (5) years, unless (i) the Agency terminates its membership pursuant to Section 10 of these Terms and Conditions; (ii) the Agency forfeits its membership rights pursuant to Section 6 of these Terms and Conditions; or (iii) the intergovernmental agreement executed by the City of Yuma and Yuma County and recorded in the Yuma County Recorder’s Office at Fee #2011-05590, expires or is terminated.

- 10. **Termination:** The Agency may terminate its membership in the YRCS by providing one (1) year written notice of termination to the YRCS Council Chairperson. If the Agency terminates or forfeits its membership in the YRCS, the Agency shall, on or before the date the Agency’s termination becomes effective, pay a termination fee equal to the sum of the Agency’s portion

of all contracts with third-party vendors for the YRCS existing as of the termination date. By way of illustration of the preceding sentence, if the Agency terminates its membership in the YRCS while there are 3 years remaining in a third-party vendor contract for the YRCS, the Agency's termination fee is the sum of the amount the Agency would have paid over the remaining 3 years of the third-party vendor contract. Any Agency specific hardware and software not purchased with YRCS grant funds, or if not needed by YRCS for system functionality, may remain the property of the Agency if approved in writing by YRCS Council.

11. **Authorized Use:** The Agency shall not permit any other public or private entity to use the YRCS, including but not limited to YRCS' interfaces and radio system talk groups, unless otherwise agreed to by vote of YRCS Council prior to the use of the YRCS by a non-YRCS member.
12. **Notices:** All notices or demands upon either Party shall be in writing and all shall be delivered in person or sent by certified mail addressed as follows:

To the YRCS:

City of Yuma
Attn: ITS Dept - YRCS
YRCS Project Manager
One City Plaza
Yuma, Arizona 85364

With a copy to

Yuma County
Attn: Yuma County Sheriff
106 S. 3rd Ave
Yuma, AZ 85364

To the Agency:

City of San Luis, Arizona
Attn: City Manager
1090 East Union Street (in person)
P.O. Box 1170 (by mail)
San Luis, Arizona 85349
(928) 341-8500

13. **Indemnification:** Each Party ("Indemnitor") agrees to indemnify, defend, and hold harmless the other Party and its agents, officials, employees, directors, and representatives ("Indemnitee") from and against any and all claims, losses, liabilities, fines, damages, and expenses arising out of or resulting from Indemnitor's negligent acts, mistakes, errors, or omissions in the Indemnitor's performance under these Terms and Conditions.
14. **No Partnership:** 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. 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.
15. **Compliance with Non-Discrimination Laws:** The Parties shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 99-4 which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have 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.
16. **Jurisdiction/Venue:** Any action to enforce any provision of these Terms and Conditions or to obtain any remedy with respect these Terms and Conditions shall be brought exclusively in the Superior Court, Yuma County, Arizona (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks jurisdiction over such action). 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.
17. **Entire Contract and Amendments:** This instrument contains the entire agreement between the Parties hereto and supersedes all prior and contemporaneous agreements, discussions and representations related thereto. No supplement, modification or amendment hereof shall be binding and effective unless in writing and signed by both Parties.
18. **Compliance with Law:** The Agency shall comply with all federal, state and local laws, regulations and ordinances.
19. **Non-Waiver:** The failure or delay of either Party to insist upon strict performances of any of the provisions of these Terms and Conditions, or to exercise any of the rights or remedies provided by these Terms and Conditions, shall not release either Party from any of the responsibilities or obligations imposed by law or by these Terms and Conditions, and shall not be deemed a waiver of any right of either Party to insist upon strict performance of these Terms and Conditions
20. **Construction and Severability:** These Terms and Conditions shall be governed and construed in accordance with the laws of the State of Arizona. If any provision of these Terms and Conditions are held invalid the remainder of the Terms

and Conditions shall not be affected thereby and all other parts of these Terms and Conditions shall be in full force and effect.

- 21. Attorney's Fees.** In the event of litigation under these Terms and Conditions, the prevailing Party shall be entitled to recover its costs and fees, including reasonable attorney's fees as determined by the court in such action.
- 22. Authorized Signatory.** Each Party warrants that the person signing these Terms and Conditions on behalf of the Party is authorized to execute and accept Agreements of this nature.
- 23. Boycott of Israel.** To the extent applicable under A.R.S. § 35-393.01, the Agency certifies the Agency is not engaged in a boycott of Israel as of the effective date of these Terms and Conditions, and agrees for the duration of these Terms and Conditions to not engage in a boycott of Israel.
- 24. Legal Arizona Workers Act Compliance:** To the extent applicable under A.R.S. § 41-4401, the Agency warrants, to the extent applicable under A.R.S. § 41-4401, that the Agency has registered with and will continue to participate in the E-Verify program established by the United States Department of Homeland Security and Social Security Administration or any successor program; that the Agency warrants compliance with all federal immigration laws and understand that any breach of this warranty subjects the Agency and the Agency's contractors to penalties, including termination of these Terms and Conditions; and finally, understands that City has the right to inspect the Agency or the Agency's contractor's papers or of any of their employees participating in the YRCS to ensure compliance with this Section.

By signing below, the Agency agrees that understands these Terms and Conditions, and accepts the Terms and Conditions, and agrees to be legally bound by this document.

YRCS Council

City of San Luis, Arizona

Leon Wilmot, YRCS Council Chairperson

Gerardo Sanchez, Mayor

Date: _____

Date: _____

I hereby state that I am the attorney for the City of San Luis, State of Arizona, and pursuant to the provisions of A.R.S. 11-952(D) have determined that the foregoing Intergovernmental Agreement is in proper form and is within the powers and authority granted to the City of San Luis, Arizona under the laws of the State of Arizona.

Dated this ____ day of December, 2017

Kay Marion Macuil
San Luis City Attorney