

**INTERGOVERNMENTAL AGREEMENT FOR  
MUTUAL AID AND ASSISTANCE FOR FIRE, MEDICAL, HAZARDOUS  
MATERIAL, CBRNE, MASS CASUALTY EMERGENCIES, TECHNICAL RESCUE  
AND OPERATIONS SUPPORT**

This Intergovernmental Agreement For Mutual Aid and Assistance For Fire, Medical, Hazardous Material, CBRNE, Mass Casualty Emergencies, Technical Rescue And Operations Support (the “**Agreement**”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2018 (“**Effective Date**”), by and between the City of Yuma, an Arizona municipal corporation (“**Yuma**”) and the City of San Luis, Arizona, an Arizona municipal corporation (“**San Luis**”). Yuma and San Luis may be referred to herein individually as a “**Party**” or 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 its own jurisdiction and area; and,

**WHEREAS**, the Parties have had a mutual aid agreement since November of 1993, to provide the highest level of services in conjunction with the most effective use of local fire department resources working collaboratively through intergovernmental cooperation; 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 augment the fire protection, emergency medical, hazardous material, Chemical, Biological, Radiological, Nuclear, and High Yield Explosive (“**CBRNE**”), mass casualty response, and technical rescue 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 Parties desire to work together regarding the ongoing implementation and use of the Opticom infrared (“**IR**”) traffic preemption system (the “**Opticom System**”), which provides line-of-sight emergency vehicle preemption of traffic signals and increases the safety of authorized fire and medical emergency vehicles and the traveling public; 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 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 improve the provisions of fire protection and emergency medical services within the respective jurisdictions of the Parties by facilitating mutual aid and assistance.

**2. Definitions.**

2.1. “*Incident Commander*” means the individual designated by the Requesting Agency charged with overall management and command of an emergency incident pursuant to the National Incident Management System.

2.2. “*Mutual Aid*” means the provision of such apparatus, personnel, and equipment as reasonably necessary and available to assist a Requesting Agency in matters related to the services as needed by a Requesting Agency.

2.3. “*Requesting Agency*” means the Party who makes a request for Mutual Aid from the other Party pursuant to the terms and conditions of this Agreement.

2.4. “*Responding Agency*” means the Party who agrees to provide Mutual Aid to the other Party pursuant to the terms and conditions of this Agreement.

**3. Request For Assistance.** If confronted with an emergency situation at which the Requesting Agency has need for apparatus, equipment or personnel in excess of that available to the Requesting Agency, the commanding officer of the Requesting Agency or the officer in charge of a fire unit or an emergency medical service unit of the Requesting Agency at the scene of the emergency of either Party is authorized to request assistance from the other Party as follows:

3.1. Fire or Other Emergencies: The Parties will respond to structural fires or other emergencies, which may include, but are not limited to, weather related, earthquake related or any other type of emergency condition, within the Parties’ respective jurisdictional limits.

3.2. Medical Emergencies: The Parties will respond to emergency medical incidents within the Parties’ respective jurisdictional limits.

3.3. Hazardous Material Emergencies/CBRNE:

3.3.1. The Parties will assist in the emergency stabilization, containment, and identification of chemicals and/or substances involved in a spill, release, or leak that pose a serious risk to public health or safety consistent with their level of training and capabilities.

3.3.2. Continuing cleanup action beyond the scope of the emergency response

shall remain the responsibility of the Requesting Agency.

3.4. Technical Rescue: The Parties will respond to technical rescue incidents within the Parties' respective jurisdictional limits. Technical rescues include, but are not limited to, swift water, high angle, trench, confined space, palm tree rescue and collapse rescue.

3.5. Extraordinary Emergency Events:

3.5.1. It is recognized that the Parties to this Agreement may maintain agreements with other emergency response agencies and that both agencies may not hold agreements with the same agencies. If a Party to this Agreement responds to an emergency upon the request of another agency in which both Parties do not have formal agreements, the Party bound by an agreement can request assistance from the other Party for purpose of augmenting its emergency resources needed provide protection within its jurisdiction.

3.5.2. The Requesting Agency must ensure that the jurisdiction with responsibility for the emergency has established an incident command with a minimum of an incident commander. The incident commander will maintain or may delegate the duties of safety officer and accountability officer. If the department with responsible jurisdiction does not meet the minimum incident command requirement it is incumbent on the Requesting Agency to establish an incident command for the purpose of organizing and providing safety functions for the Responding Agency.

3.6. Fire Investigation: The Parties shall maintain trained fire investigation staffs and both Parties agree to assist each other with investigations when requested.

3.7 Availability of Resources: The Parties obligations under this Section 3 are subject to the availability of resources and personnel. Neither Party is required to provide Mutual Aid if the Party's resources personnel are unavailable or the other Party does not request Mutual Aid.

#### **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. Traffic Signal Preemption.**

5.1. Each Party owns and operates an Opticom System or other type of traffic signal preemption system within its jurisdiction, and agree to allow the other Party access to and use of its Opticom System for fire and medical emergency vehicles use only.

5.2. The use of Yuma's Opticom System shall be governed by and is subject to Yuma's Department Guideline Emergency Vehicle Signal Preemption System Use ("**Signal Preemption Policy**"), a copy of which is attached hereto as Exhibit "A" and incorporated herein.

5.3. Each Party shall remain responsible for the purchase, installation, maintenance and operation of the Opticom System and its components within the Party's jurisdiction, and nothing in this Agreement shall require either Party to operate or continue the use of the Opticom System.

5.4. Each Party shall provide to the other Party a list of intersections within that Party's jurisdiction on which an Opticom System receiver has been installed.

5.5. Use of the Opticom System DOES NOT GUARANTEE or GRANT the right-of-way to the emergency vehicle. In addition to the indemnity obligations set forth in Section 14 of this Agreement, each Party ("Indemnitor") shall indemnify, defend, and hold harmless the other Party and its agents, employees, officers, and directors (collectively "Indemnitee") from and against all claims, demands, suits, judgments, and costs that arise from the Indemnitor's use of the Indemnitee's Opticom System.

**6. Equipment Compatibility.** The Parties shall meet at least annually to validate equipment compatibility and ensure interoperability for first responders.

**7. Unified Command Structure/Operating Procedures.**

7.1. The Parties shall meet annually and establish a unified command structure and draft standard operating procedures/plans for the following: Incident Command, Communications, Fire Ground Operations, Hazardous Material Operation, CBRNE events, Emergency Medical Casualty Responses and Technical Rescues.

7.2. The technical heads of the fire departments and other divisions, units, or shops of the Parties are authorized and directed to meet and draft any detailed plans and procedures of operation necessary to effectively implement this Agreement.

**8. Cooperation/Training.** The Parties are encouraged to exchange personnel for the purpose of training and learning each other's operations.

8.1. The chief officers and personnel of the fire department of the Parties are invited and encouraged, on a reciprocal basis, to frequently visit each other's facilities for guided familiarization tours consistent with local security requirements and, as feasible, to jointly conduct pre-fire planning inspections and drills.

8.2. The Parties are encouraged to develop and participate in joint training exercises during the year. The Parties may use training facilities and training equipment under the control of either Party as long as said use does not interfere with the jurisdiction controlling the facility and or equipment and subject to the policies and regulations established for such training facilities. The use of the Yuma Public Safety Training Facility ("**YPSTF**") requires a separate written agreement governing the use and costs associated with the YPSTF. The YPSTF use agreement is attached hereto as Exhibit "B" and incorporated herein.

**9. Emergency Equipment Loans.** The Parties maintain their own fleet of emergency response vehicles and equipment. When mechanical or other break downs occur, which places a Party in a situation where an adequate number of vehicles or equipment is not available to maintain their mission capability, the Parties shall be allowed to borrow/loan vehicles and equipment from each other when said vehicles/equipment is available. Unless otherwise supplemented by a separate Mutual Equipment Sharing Agreement, the borrowing/loaning of equipment shall be subject to the following requirements:

9.1. The Parties shall memorialize the sharing of equipment in writing, which shall state a description of the loaned equipment and its stated value, the term of the loan, noting the commencement and expiration dates, and a statement acknowledging that the loan agreement is being made subject to the terms of this Agreement.

9.2. The Requesting Agency (a.k.a. the "**Borrowing Agency**") shall use the loaned equipment in a careful and proper manner. The Parties shall comply with and conform to all national, state, municipal, and local laws, ordinances and regulations applicable to its performance under this Agreement. Without limiting the foregoing, the Borrowing Agency shall only allow persons properly trained, qualified, and, as applicable, licensed and approved, to operate the loaned equipment.

9.3. The loaned equipment will not be operated by any person under the influence of alcohol, illegal or legal substances or drugs, illness or any other intoxicants or condition which could adversely impair the driver's judgment or ability to safely operate the loaned equipment. No person will be allowed to operate the loaned equipment if he or she has consumed any alcohol within the prior 12 hours.

9.4. The Borrowing Agency will assure that, prior to allowing any person to operate the loaned equipment, each such person, within the immediate past 24 months, (a) has not been convicted of driving while intoxicated or under the influence (DUI/DWI); (b) has not had more than one at-fault accident; (c) has not been convicted of driving recklessly, hit and run, road rage or vehicular homicide; or (d) has not had more than two moving violations or more than two points (if applicable) on his or her driver's license.

9.5. The loaned equipment will not be taken outside of the United States or outside the jurisdictional boundaries of Borrowing Agency without prior written permission from the Responding Agency (a.k.a. the “**Lending Agency**”).

9.6. The loaned equipment will not be used to transport people or property for hire, be subleased, or used for any unauthorized or illegal purpose. This restriction does not apply to the transportation of patients in any loaned ambulance. The Borrowing Agency will not allow any unauthorized or untrained person to occupy or operate the loaned equipment. Each operator of equipment loaned from Yuma must receive Yuma Fire Department approved training in the proper operation of, and safety issues concerning the loaned equipment prior to being permitted to operate the loaned equipment.

9.7. The Borrowing Agency, at its own cost and expense, shall keep and return the loaned equipment clean, in good repair, condition and working order, will ensure that all necessary routine maintenance is performed, and shall furnish any and all parts, fuels, fluids, mechanisms and devices required to keep and return the loaned equipment in good mechanical working order.

9.8. The Borrowing Agency will maintain an accurate and complete log of all loaned equipment use (identifying the drivers, corresponding mileage, reported accidents and/or material damage). The Borrowing Agency will retain such log for one year after return of the loaned equipment. The Lending Agency may at any time up to one year after return of the loaned equipment review all records relating to the Borrowing Agency’s use of the equipment. In addition, the Borrowing Agency will track and report all fuel usage (including loaned equipment mileage), all maintenance performed (indicating the location at which maintenance was performed), all safety checks performed and the results thereof, loaned equipment usage, and provide such additional reports as the Lending Agency may from time to time request.

9.9. The Borrowing Agency will not allow, and will promptly cause to have removed at its own expense, any lien or encumbrance on the loaned equipment.

9.10. The Borrowing Agency hereby assumes and shall bear the entire risk of loss and damage to the loaned equipment from any and every cause whatsoever, except for loss or damages attributable to the sole negligence or willful misconduct (acts or omissions) of the Lending Agency. No loss or damage to the loaned equipment or any part thereof shall impair any obligation of the Borrowing Agency under this Agreement. In the event of loss or damage of any kind whatever to the equipment, within 30 days the Borrowing Agency shall, at the Lending Agency’s option: (a) place the same in good repair, condition and working order; (b) replace the same with like equipment in good repair, condition and working order; or (c) pay to lending agency the stated valuation of the loaned equipment.

9.11. In the event of an accident, damage, or theft involving the loaned equipment, the Borrowing Agency will immediately notify the appropriate governmental authority (e.g. police department to file an official police report), complete an equipment accident

report and contact the lending agency's contact named in this Agreement. The Borrowing Agency shall have the loaned equipment repaired at the sole cost of the Borrowing Agency and/or its insurer(s), but no repair work may be performed on the Loaned Equipment without the Lending Agency's prior written authorization. Repair of damage to the loaned equipment will remain the responsibility of the Borrowing Agency. The Borrowing Agency and/or its insurers must promptly make available to the Lending Agency all documents and other information relating to the accident, damage or theft.

9.12. At all times during which the loaned equipment is used by the Borrowing Agency, the Borrowing Agency shall continuously maintain and pay for all risk insurance coverage against loss of and damage to the loaned equipment for not less than the stated value of the loaned equipment. The Lending Agency shall be listed as "loss Payee" on the Borrowing Agency's auto physical damage insurance. During the period in which the loaned equipment is loaned to the Borrowing Agency, the Borrowing Agency shall continuously maintain and pay for automobile liability insurance coverage and other general liability insurance coverage as provided for herein.

9.13. In addition to the indemnity obligations set forth in Section 14 of this Agreement, the Borrowing Agency will defend, indemnify, and hold harmless the Lending Agency, its officers, employees, and agents from and against all claims, liabilities, losses, damages, demands, costs, expenses, penalties, liens, judgments, settlements, other legal proceedings, and any defense costs, including without limitation, reasonable attorneys or other professional fees, in connection with, allegedly or actually resulting from, caused by, or arising out of damage to property (including that to the loaned equipment), or bodily injury including death to any person resulting from:

9.13.1. any act, including but not limited to, criminal, willful, intentional, negligent or other act, error or omission of the Borrowing Agency or the Borrowing Agency's employees, officers, directors, agents, contractors or any drivers of the loaned equipment;

9.13.2. the possession, care, use, maintenance, operation or failure to operate the loaned equipment that is provided to the Borrowing Agency under this Agreement;

9.13.3. performance or failure to perform services or obligations as provided within this Agreement;

9.13.4. the failure of the Borrowing Agency to comply with all applicable federal or state laws, rules and regulations in performing its duties or discharging its responsibilities under this Agreement; or

9.13.5. breach of this Agreement by the Borrowing Agency, including misrepresentation.

Notwithstanding the above, the Borrowing Agency will not be obligated to indemnify, hold harmless or defend the Lending Agency for claims, liabilities, losses, damages, demands, costs, expenses, penalties, liens, judgments, settlements, other legal proceedings, and any defense costs, including, without limitation, reasonable attorneys or other professional fees, that result from or arise out of product defects in the design or manufacture of the loaned equipment.

9.14. The Borrowing Agency will be responsible for payment of any fines, penalties, citations, parking tickets, towing charges, impoundment charges or taxes incurred while the loaned equipment is in the custody, care or use of the Borrowing Agency.

9.15. Prior to receiving loaned equipment, the Borrowing Agency must present to and obtain approval from the Lending Agency of the Borrowing Agency's intended use plan for each type of loaned equipment; certificates of insurance, and all required or necessary endorsements.

9.16. The Borrowing Agency's obligations under Section 9 of this Agreement will survive termination, expiration, cancellation or non-renewal of this Agreement.

**10. Term of Agreement.** This Agreement shall become effective upon the Effective Date and continue in full force and effect for a period of five (5) years. This Agreement will be reviewed by the Parties ninety (90) days prior to its expiration, unless cancelled or amended by the Parties, this Agreement will automatically renew for an additional five (5) year period. This Agreement may be cancelled by either Party, by giving thirty (30) days written notice of said cancellation to other Party.

**11. 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.

**12. Employees/Volunteers.**

12.1. In connection with this Agreement, no employee or volunteer of a Responding Agency shall be deemed to be a loaned servant, employee, agent or volunteer of the Requesting Agency 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.

12.2. 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.

**13. Compensation/Expenses/Liability.**

13.1. Each Party agrees that it will not seek compensation for services rendered under

this Agreement from the other Party; provided, however, that the Party requesting assistance shall attempt to obtain financial assistance from federal and state agencies where financial assistance is available to reimburse the assisting Party for losses or damages incurred in supplying Mutual Aid under this Agreement. Nothing in this Agreement shall prohibit any Party from seeking civil damages from any individual or entity which may have been responsible for the emergency conditions for which aid was requested.

13.2. Except as expressly provided herein, the Requesting Agency shall not be obligated to pay the Responding Agency for any damage to or destruction of any apparatus or equipment used in Mutual Aid. This provision shall not apply to the extent this provision would void applicable casualty insurance available to provide payment for the damage or loss of such apparatus or equipment. It is the intent of the Parties that the risk of loss to apparatus or equipment will be addressed by each Party through the purchase of casualty insurance as opposed to seeking reimbursement from other Party.

13.3. Materials used by the Responding Agency in the support of hazardous materials emergency responses shall be replaced in kind by the Requesting Agency.

13.4. Direct expenses and losses, which are additional firefighting costs over and above normal operating costs, incurred while fighting a fire on property which is under the jurisdiction of the United States, may be reimbursed in accordance with the Federal Fire Prevention and Control Act of 1974 (Public Law No. 93-498, 15 U.S.C. 2201 et. seq.) and its implementing regulation (44 C.F.R. 151).

#### **14. Indemnification/Insurance.**

14.1. 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.

14.3. 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. 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.

**15. Funding.** This Agreement shall be subject to available funding for each Party, and nothing in this Agreement shall bind any Party 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. Assignment.** Neither Party may assign any of its duties, rights or responsibilities under this Agreement without the express written consent of the other Party.

**19. 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.

**20. 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.

**21. Third-Parties.** This Agreement shall not be construed as an Agreement for the benefit of any third-party or parties.

**22. Non-Exclusive Agreement.** The Parties to this Agreement shall not be precluded from entering into similar agreements or first response agreements with other agencies.

**23. Notice.** 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

SAN LUIS: City of San Luis  
Attn: City Manager  
P.O. Box 1170  
San Luis, Arizona 85349

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.

**24. 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.

**25. Authority.**

25.1. The Yuma City Council enters into this agreement pursuant to its power to adopt intergovernmental agreements as granted in Article III, Section 13 of the City of Yuma Charter and A.R.S. § 11-952.

25.2. The San Luis City Council enters into this Agreement pursuant to its power to adopt intergovernmental agreements and as granted in San Luis City Code Section 33.08 and A.R.S. § 11-952.

**27. Anti-Deficiency Act.** Nothing herein shall be construed as requiring the Parties to act in violation of any applicable state, federal, or local statute, rule, or regulation including, but not limited to, the Anti-Deficiency Act.

**28. Jurisdiction/Venue/Applicable Law.** The Parties must institute and maintain any legal actions or other judicial proceedings arising from this Agreement in an Arizona court of competent jurisdiction in Yuma County, Arizona. This Agreement shall be governed by and

construed in accordance with the laws of the State of Arizona.

**29. Workers Compensation.** The employees, agents, officials or representatives of the Parties will not for any purpose be considered employees, agents, officials or representatives of the other. Each Party assumes full responsibility for the actions of its personnel while performing services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, and payment of salary (including withholding income taxes and social security).

Solely for the purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws, an employee of either Party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue.

Each Party shall post a notice pursuant to the provisions of A.R.S. § 23-1022 in substantially the following form:

"All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purpose of worker's compensation."

**30. Conflict of Interest.** The Agreement is subject to the conflict of interest and cancellation provisions of the A.R.S. § 38-511, as amended, the provisions of which are incorporated herein.

**31. 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.

**32. Independent Contractor/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. Nothing in this Agreement constitutes a partnership or joint venture between the Parties and neither Party is the principal or agent of the other.

**33. 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.

**34. 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.

**35. Boycott of Israel.** To the extent applicable, the Parties certify that they are not currently engaged in, and agree for the duration of this Agreement that they will not engage in a “boycott,” as that term is defined in A.R.S. § 35-393, of Israel.

**36. 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 hereto have executed this Agreement as of the Effective Date.

**CITY OF YUMA**

**CITY OF SAN LUIS**

\_\_\_\_\_  
Gregory K. Wilkinson  
City Administrator

\_\_\_\_\_  
Tadeo A. De La Hoya  
City Manager

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

\_\_\_\_\_  
Sonia Cornelio  
City Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Richard W. Files  
City Attorney

\_\_\_\_\_  
Kay Marion Macuil  
City Attorney

## **Exhibit “A”**

## **Exhibit “B”**