

## BYLAWS

### OF

## GREATER YUMA PORT AUTHORITY, INC. (An Arizona Nonprofit Corporation)

### ARTICLE I

#### REFERENCES TO CERTAIN TERMS AND CONSTRUCTION

1.1 Certain References. Any reference herein made to law will be deemed to refer to the law of the State of Arizona, including any applicable provision of Title 10 of the Arizona Revised Statutes, or any successor statute, as from time to time amended and in effect. Any reference herein made to the corporation's Articles will be deemed to refer to its Articles of Incorporation and all amendments thereto as at any given time on file with the Arizona Corporation Commission. References to specific sections of law herein made shall be deemed to refer to such sections, or any comparable successor provisions, as from time to time amended and in effect.

1.2 Seniority. The law and the Articles (in that order of precedence) will in all respects be considered senior and superior to these Bylaws, with any inconsistency to be resolved in favor of the law and such Articles (in that order of precedence), and with these Bylaws to be deemed automatically amended from time to time to eliminate any such inconsistency which may then exist.

1.3 Computation of Time. The time during which an act is required to be done, including the time for the giving of any required notice herein, shall be computed by excluding the first day or hour, as the case may be, and including the last day or hour.

### ARTICLE II

#### OFFICES

2.1 Principal Office. The principal office of the corporation shall be located at any place either within the State of Arizona as designated in the corporation's most current Annual Report filed with the Arizona Corporation Commission or in any other document executed and delivered to the Arizona Corporation Commission for filing. If a principal office is not so designated, the principal office of the corporation shall mean the known place of business of the corporation. The corporation may have such other offices, either within or without the State of Arizona, as the Board of Directors may designate or as the business of the corporation may require from time to time.

2.2 Known Place of Business. A known place of business of the corporation shall be located within the State of Arizona and may be, but need not be, the address of the statutory agent of the corporation. The corporation may change its known place of business from time to time in accordance with the relevant provisions of the Arizona Nonprofit Corporation Act.

## ARTICLE III

### MEMBERS

3.1 Initial Members. The initial members of the corporation shall be as follows:

Yuma County, Arizona

City of San Luis, Arizona

City of Somerton, Arizona

Cocopah Indian Tribe

3.2 Additional Members. Additional members may be added by vote of the Board of Directors as provided in Section 4.1 below.

## ARTICLE IV

### PORT AUTHORITY BOARD OF DIRECTORS

4.1 Purpose, Empowerment and Number of Directors

*A. Purpose and Empowerment*

In addition to the duties of the Board set forth herein, it shall be the primary duty of the Board to make all policy statements on behalf of the corporation and to decide such policy issues as may come before the Board, as well as to supervise the direction and action of the corporation and its Officers and employees given the approved and accepted policies of record. The Board of Directors shall also review all action taken by any committees.

*B. Number of Directors*

The affairs of the corporation shall be directed by a Board of Directors, which shall consist of two persons appointed by each Member.

*C. New Members*

New corporation Members may be added by a  $\frac{1}{4}$  vote of the current Board of Directors, provided that at least one Board member appointed by each Member approves the addition of a new Member. Any new Members must be federal, state or local governmental entities or Federally recognized Indian Tribes.

The cost of the Membership shall be determined by the current Board of Directors, and shall be at least what the other Members have contributed on the date that the new Member is approved. Such amount is due within 60 (sixty) days of the date of approval of the new Member, or as determined by the Board of Directors.

#### 4.2 Master Plan

The Board shall draft a master plan for improvement of any land which shall be conveyed to, leased or acquired by the corporation. A majority vote of the Board shall be required to adopt this plan. The Board may from time to time modify the master plan by majority vote of the Board.

The provisions in the Master Plan shall not override or supersede any local existing zoning ordinance in effect at the time said lands are acquired. The jurisdiction wherein any land obtained by the corporation is situated shall govern such land.

#### 4.3 Composition, Selection, and Qualifications of Members of the Board of Directors

A. A Member may appoint two (2) persons to serve on the Board of Directors, one of whom shall be from the business/private community and not an employee or elected official of any Member.

B. It is strongly recommended the Members shall appoint qualified person(s) to the Board. Persons experienced in economic development, transportation, and international issues are desired.

#### 4.4 Voting Rights

Each Director shall be entitled to one vote provided the requirements of Article V are fulfilled. All votes shall be considered equal. Written proxies may not be given.

#### 4.5 Term of Office

The term of office shall be five (5) years, with a maximum of two (2) consecutive terms. In the event, a Director fails to complete his/her five year term, a replacement will be selected by the appointing Member to serve the remaining portion of the term. Should the replacement serve equal to or greater than three (3) years, then he/she will have been deemed to have served a full five year term for the purposes of serving consecutive terms.

#### 4.6 Initial Directors

The initial Board of Directors shall consist of directors selected to serve three or five year terms. Each Member shall select one director to serve a three year term and one director to serve a five year term. An initial director serving a three year term shall be considered to have served a full term for the purposes of this section.

#### 4.7 Notice of Meetings

Written notice and a complete meeting packet of each Board Meeting shall be mailed or delivered to each Director at least five (5) working days prior to the date fixed for such meeting, except that, upon a declaration of emergency by a majority vote of the total number of persons

serving on the Executive Committee of the corporation Board, notice of a special meeting shall be delivered to each Director at least twenty-four (24) hours before the date and time of such meeting and shall include the matters to be addressed in the special meeting.

Notice and complete meeting packet shall also be given to the Chief Administrative Officer (CAO) of the Member agency at the prescribed corporate office and delivered in the same manner as for the Directors.

Notice of each Board Meeting shall be given in such a manner as to comply with the Arizona "Open Meeting" law.

#### 4.8 Quorum and Required Vote

A majority of the Directors in office shall constitute a quorum for the transaction of business. A vote of a majority of the Directors present at any meeting in which a quorum is present shall constitute action by the Board unless a different vote is required by the Articles of Incorporation, these Bylaws, or by statute.

#### 4.9 Directors' Manner of Acting

##### *A. Participation in Meetings*

Any or all directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear one another during the meeting, in which case, any required notice of the meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. A director participating in a meeting by this means is deemed to be present in person at the meeting.

##### *B. Dissent or Abstention of a Director*

A director who is present at a meeting of the Board of Directors or a committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless (1) the director objects at the beginning of the meeting (or promptly upon his or her arrival) to holding it or transacting business at the meeting, (2) his or her dissent or abstention from the action taken is entered in the minutes of the meeting, or (3) he or she delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation before 5:00 p.m. on the next business day after the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

#### 4.10 Removal of Directors

Directors shall serve at the will of their appointing Member. An appointing Member may remove its Directors at any time with or without cause. In the event a Director is removed by a Member, the Member shall promptly appoint a successor Director.

#### 4.11 Ex Officio Members

The Board may designate non-voting ex-officio members to the Board. The presence of ex-officio members at a meeting will not be added in order to constitute a quorum. It is anticipated the ex-officio officers will have significant experience in areas relevant to the operation and goals of the corporation.

While the Board may designate such ex-officio members as it deems appropriate, it is anticipated that the initial ex-officio Board Members shall include individuals selected from Marine Corps Air Station (Yuma), Yuma Metropolitan Planning Organization, Yuma County Airport Authority, Yuma Proving Ground, Greater Yuma Economic Development Corporation, Yuma County Chamber of Commerce and San Luis Chamber of Commerce shall serve as initial ex-officio Board Members.

### ARTICLE V MEMBER PARTICIPATION, CAPITAL CONTRIBUTION, INDEMNIFICATION

#### 5.1 Membership Participation

Membership shall include all entities identified in Article III of these Bylaws. However, both appointees of a Member to the Board of Directors shall be prohibited, unless a majority of the remaining Board Members approve otherwise, from participation, voting and/or a seat on the Board of Directors if the requirements set forth in Sections 5.1 and 5.2 below are not met within twelve (12) months from the date of the request for such funds from the corporation or during any time period that a Member elects to become a "non-voting Member" pursuant to Section 5.4 below. During the time period that any Board Member is prohibited from participating pursuant to this section, such Board Member shall not be considered a member of the Board of Directors for purposes of determining whether a quorum of Board Members are present at any meeting or for purposes of determining whether any vote was approved by a majority of the Board Members.

#### 5.2 Initial Capital Contribution

Each Member shall be responsible to contribute capital in equal amounts of \$100,000.00. The initial Board will take into consideration all factors determined necessary to formation of the corporation and determine an operating budget for year one of the corporation. The amount necessary as determined by the Board shall then be divided by the number of Members. Each Member shall be responsible for contribution of this amount. Failure by any Member to fulfill its obligation under this paragraph shall prohibit the Member from participating as set forth in paragraph 5.1 until such time as all contribution requirements are satisfied.

### 5.3 Cash Calls

It is anticipated that certain expenses, after the initial capital contribution, may arise prior to the corporation producing enough revenue to meet expenses. Each Member executing these bylaws, and each new Member who shall hereafter be admitted to membership in the Corporation, agrees to be responsible for its equal share of any such expense as requested by majority vote of the Board, not to exceed \$20,000.00 per year (subject to appropriation by each respective governing board). Failure by any such Members to fulfill the requirement set forth herein shall prohibit the Member from participating as set forth in paragraph 5.1 until such time as all contribution requirements are satisfied.

### 5.4 Voluntary Withdrawal of Member

Any Member may at any time voluntarily withdraw from membership and shall be entitled to repayment without interest of the Member's capital contribution, payable over a three-year term; or

At the request of the withdrawing Member, said Member may be allowed to remain as a non-voting member until dissolution, at which time the withdrawing Member would receive the amount set forth in paragraph 5.5(C) (the withdrawing Member may at any time prior to the dissolution become reinstated as a voting Member by paying all outstanding assessments from the date of withdrawal); or

The withdrawing Member shall receive such amounts in satisfaction of his interest as the withdrawing Member and the remaining Members agree upon by unanimous consent.

### 5.5 Dissolution

#### *A. Events of Dissolution*

The corporation may be dissolved only upon written consent of each and every director of the Board, and at the approval of the governing body of each Member.

#### *B. Winding up*

On the corporation's dissolution, the business of the corporation shall be wound up within a reasonable period of time, its assets liquidated, a final accounting made and the corporation's books closed all in accordance with the applicable provisions of Title 10 of the Arizona Revised Statutes.

#### *C. Distribution of Liquidation proceeds*

##### 1. Assets/proceeds

Should any assets/proceeds in excess of liabilities exist following this corporation's election to dissolve and winding up, the assets/proceeds shall be distributed to the

Members. Any assets not disposed of shall be disposed of by the Superior Court of Yuma County, Arizona.

## 2. Liabilities

Upon dissolution and liquidation, any liabilities in excess of assets/proceeds will be divided equally among the remaining Members. A Member will be considered responsible under this paragraph unless it terminated its membership greater than two years prior to the date of the election to dissolve. Notwithstanding the foregoing, nothing in this provision shall cause the liabilities allocated to a Member to constitute a debt of such Member and the Member's obligation to make payment of such liability shall be at the sole discretion of the Member's governing body and shall be subject to appropriation.

### 5.6 Indemnification

To the extent permitted by law, each Member shall hold harmless and indemnify each other Member from any claim, liability or loss related to any funding, capital contribution, or in any manner whatsoever with regard to the individual participation by that Member to the fullest extent allowed by law, save for that caused by the indemnitee's intentional misconduct or sole negligence, or as specified in 5.5.C.2.

## ARTICLE VI OFFICERS

### 6.1 Officers of the Corporation

The officers of the corporation shall consist of the Chairperson, Vice Chairperson, and a Secretary/Treasurer and shall collectively constitute the Executive Committee.

### 6.2 Election-Term

The Chairperson, Vice Chairperson and Secretary/Treasurer of the corporation shall be elected by the Board at the next scheduled Board Meeting following the Annual Meeting. Officers shall serve terms of one (1) year each or until their successors are elected and qualified.

### 6.3 Chairperson of the Board

The Chairperson of the corporation Board shall preside at all meetings of the Board and the Executive Committee.

### 6.4 Vice Chairperson

The Vice Chairperson in the absence of the Chairperson, shall assume all duties of that office and, upon the death, resignation, or removal of the Chairperson, the Vice Chairperson shall assume duties until a new Chairperson has been elected.

## 6.5 Secretary/Treasurer

The Secretary/Treasurer shall keep the roll of Directors, give staff assistance in providing notice of all meetings and recorded minutes of the Boards, review and sign the minutes of such meetings and generally oversee the records, and shall perform such other duties as may be assigned by the Chairperson. The Secretary/Treasurer shall work with staff of the corporation and shall accept contributions to the corporation keep accurate accounts of all sums due and all expenditures made, and report the financial condition of The corporation to the Board at each Regular Meeting.

## **ARTICLE VII** **COMPENSATION**

No Director or Officer shall be entitled to any compensation. However, the Board may reimburse reasonable out-of-pocket expenses of its Officers and/or Directors in the performance of duties, if such expenses are approved by the Board.

## **ARTICLE VIII** **AMENDMENT**

Amendments to these Bylaws may be adopted by the Board of Directors at the Annual Meeting or at a special meeting called for that purpose. Notice of any proposed amendments shall be included in a notice to the Members of the meeting at which the proposed amendments is to be considered. A resolution adopting the proposed amendment must receive approval by a three-fourths (3/4) vote of the Board of Directors and the approval of the governing body of each member.

## **ARTICLE IX** **CONFLICTS OF INTEREST**

### 9.1 Definitions

#### A. *Port Authority*

Only for the purposes of this Article IX, Conflicts of Interest, "Port Authority" means and includes all Officers and Directors of the Port Authority and employees of the Port Authority, and their relatives.

#### B. *Relatives*

"RELATIVE" means the spouse, child, stepchild, grandchild, parent, grandparent, brother, or sister, of the whole or half blood, and their spouses.

C. *Substantial Interest*

"SUBSTANTIAL INTEREST" means substantial pecuniary or proprietary interest, either direct or indirect.

9.2 Specific Guidelines

A. No Officer or Director shall participate in the decision-making process on any matter in which such person has a substantial interest, pursuant to State law.

B. Upon learning that Port Authority (or a Committee thereof) is involved in a matter in which a Officer or Director has a substantial interest, such Director or Officer shall notify the Chair of Port Authority of such interest and shall immediately withdraw from any further communication or discussion with any Officer, Director or employee of Port Authority with respect thereto.

C. No Officer or Director shall use his or her position as an Officer, Director, employee, or Committee Member of Port Authority to gain access to information or influence the decision-making process of either Port Authority or any governmental body or agency in connection with any Port Authority matter in which such Officer or Director has a substantial interest.

D. Upon receipt of notice from a Officer or Director that such person has a substantial interest in a matter in which Port Authority is involved, the Chair shall remove such Officer or Director from any discussion and not furnish or provide him or her with the information pertaining to that matter which is furnished to the other Port Authority Officer or Director; except to the extent that such information is generally available to the public at large.

9.3 Interpretation

An Officer or Director who may have a substantial interest in a Port Authority matter may disclose the potential conflict of interest to the Chair and/or counsel to Port Authority for an interpretation of this Conflict of Interest policy.

**ARTICLE X**  
**MISCELLANEOUS**

10.1 Contracts, etc.

Except as otherwise provided by law or these Bylaws, an Officer or Officers, employee or employees, or agent or agents of the corporation as shall be specified by the Board may sign, in the name and on behalf of the corporation, all deeds, bonds, contracts, leases, and other instruments or documents, the execution of which shall be authorized by a majority vote of the Board, and such authority may be general or confined to specific instances.

## 10.2 Checks, Drafts, etc.

All checks, drafts, notes, bonds, bills of exchange, or other orders, instruments, or obligations for the payment of money shall be signed and countersigned by such Officer or Officers, employee or employees, or agency or agents of the corporation as shall be specified by the Board.

## 10.3 Notice and Waivers Thereof

Whenever any notice to a Director or Officer is required by the Bylaws, by the Articles of Incorporation, or by any law, such notice, except as otherwise provided by law, may be given personally or in writing by mail addressed to such Director or Officer at his or her place of business, if any, or at such address as appears in the records of the corporation as the home address of the Director or Officer. Any notice given by mail shall be deemed to have been given when it shall have been deposited, with the proper postage, in a post office in a regularly maintained letter box, or with a postal carrier. A waiver of such notice in writing, signed by the person entitled to such notice, whether before or after the time of the action for which such notice is required, shall be deemed the equivalent thereof, and the presence without objection at any meeting of any person entitled to notice thereof shall be deemed a waiver of such notice as to such person.

## 10.4 Interested Directors

In the absence of fraud, no contract or transaction between the corporation and a Director or any other corporation or entity in which such Director is a Director or Officer, or is financially interested, shall be void or voidable for reason of the financial interest alone, provided that the fact of such common Directorship, Officership, or financial or other interest is disclosed or known to the Board, and that the Board approves such transaction or contract by a vote sufficient for such purpose without the vote of such interested Director. Such Director may, however, be counted in determining the presence of a quorum at such meeting.

## 10.5 Limitation of Liability and Indemnity

### A. *Liability*

No Officer or Director shall be liable to the corporation for any loss or damage suffered by it on account of any action taken or not taken by him or her as an Officer or Director, if such person (1) exercised and used the same degree of care and skill as a prudent person would have exercised and used under the circumstances and in the conduct of his or her own affairs, or (2) took or failed to take such action in reliance upon advice of counsel for the corporation or upon statements made or confirmation furnished by Officers or employees of the corporation which he or she had reasonable grounds to believe. The foregoing shall not be exclusive of other rights and defenses to which he or she may be entitled as a matter of law.

### B. *Indemnity*

Each Officer and Director, whether or not then in office, shall be held

harmless and indemnified by the corporation against all claims and liabilities and all expenses reasonably incurred or imposed upon him or her in connection with or resulting from any action, suit, or proceeding, civil or criminal, or the settlement or compromise thereof, to which he or she may be made party be reason of any action taken or failed to be taken by him or her as an Officer or Director of the corporation in good faith, if such person, in the opinion of a court or the Board of Directors, (1) exercised and used the same degree of care and skill as a prudent person would have exercised and used under the circumstances in the conduct of his or her own affairs, or (2) acted upon advice of counsel for the corporation or upon statements made or information furnished by Officers or employees of the corporation which he or she had reasonable grounds to believe.

C. Insurance

The corporation shall purchase and maintain insurance on behalf of, or insure or cause to be insured, any person who was or is a Director or Officer against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of such status, whether or not the corporation would have the power to indemnify him or her as provided by Arizona State Law.

10.6 Books and Records

A. The corporation shall keep complete books and records of account, shall keep minutes of the proceedings of its Board, and shall keep a record giving the names and addresses of the Directors entitled to vote, at the Principal office of business.

B. Within ninety (90) days following the close of the fiscal year, the Board of Directors shall have caused to be conducted an independent annual audit of the preceding year's financial activities.

C. Each year, at the annual Meeting, an annual report shall be made to the Members, which shall include a statement of financial condition and a summary of the activities of the corporation for the preceding fiscal year.

10.7 Corporate Seal

The Seal of the corporation shall be impressed as follows: "GREATER YUMA PORT AUTHORITY, INCORPORATED 2000 ARIZONA" ADOPTED THIS 18<sup>th</sup> DAY OF Sept., 2000 BY THE BOARD OF DIRECTORS OF THE PORT AUTHORITY.

City of San Luis  
By: [Signature]  
Its: Mayor

Cocopah Indian Tribe  
By: [Signature]  
Its: Chairman

City of Somerton  
By: [Signature]  
Its: Mayor

Yuma County Board of Supervisors  
By: [Signature]  
Its: Chairman