

CONTRACT

This contract ("Contract") is entered into this ____ day of July, 2024 and is effective July 1, 2024, between

Yuma Community Food Bank
2404 East 24th Street #A
Yuma, Arizona 85365

an Arizona non-profit charitable
corporation ("Food Bank") and

City of San Luis
City Hall (Physical Address)
1090 East Union Street
San Luis, Arizona

P.O. Box 1170 (U.S. Mail Address)
San Luis, Arizona 85349

an Arizona municipal corporation ("City"
or the "City of San Luis.")

The Food Bank and the City may be referred to singularly as the "Party" and collectively as the "Parties." In consideration of the mutual promises contained in this Contract, the Parties agree as follows:

1. The City agrees to pay to the Food Bank the sum of forty thousand dollars (\$40,000.00) for food services to needy persons in the City limits of the City of San Luis.
2. Between July 1, 2024, and June 30, 2025, the Food Bank promises to deliver food to needy persons within the City limits of the City of San Luis at least twice per month and to do so free of charge to said needy persons.
3. Distribution of food shall at all times conform to all federal, state, and local legal requirements, including, but not limited to, all rules and regulations of the Yuma County Health Department.
4. The Food Bank shall provide to the City Manager a fiscal year-to-date written report of its distribution no later than April 9, 2024, in time for the City Council's budget meetings.
5. Insurance. Without in any way limiting Food Bank's liability under the indemnification described below, Food Bank shall maintain, during the term of this Contract, the following insurance:

Coverage

Additional Insured. The City of San Luis, its elected officials, officers, employees, and agents shall be named as an additional insured with respect to liability arising out of the activities performed by or on behalf of Food Bank. Except for Workers' Compensation and Professional Liability Insurance coverage, such insurance shall include additional endorsements naming the City and its employees, agents, officers, and elected officials as additional insured for claims caused in whole or in part by Food Bank's negligent acts or omissions arising from Food Bank's performance of this Contract. Food Bank shall provide the City with certificates of insurance documenting that Food Bank has obtained the above coverages. Such certificates shall include the required provisions and endorsements required by this Contract. Such Certificates shall include a statement that insurance may not be canceled without thirty (30) days prior written notice to the City by first class mail, postage prepaid, and ten (10) days of notice if cancellation is due to nonpayment of premium.

Primary Insurance Requirement. Each Food Bank policy, including primary, umbrella, and excess policies, shall state that the insurance provided to the additional Insureds is primary and non-contributory to any other insurance (primary, umbrella, excess, self-insurance, or any other basis) available to the additional insured. Any insurance or self-insurance maintained by the City shall be in excess of Food Bank's insurance and shall not contribute to it.

Waiver of Subrogation. Food Bank waives all rights of recovery against the City of San Luis and its employees, agents, officers, and elected officials for losses arising from work performed by or on behalf of Food Bank.

6. Indemnity. Food Bank agrees to indemnify, hold harmless, and defend the City, its employees, officers, directors, agents, and elected officials from and against all claims, suits, damages, losses, liabilities, debt, judgments, settlements, costs, and expenses including reasonable attorneys' fees, incurred by the City arising from, attributable to or caused by acts or omissions of Food Bank (or its employees, officers, directors, shareholders or agents) in the performance of or related to the performance of the duties of any Food Bank employee (including, but not limited to injuries to Food Bank employees that may or may not be covered by workers compensation insurance); except to the extent that such claims, suits, damages, losses, liabilities, debt, judgments, settlements, costs, and expenses are caused by the negligence, omission, or intentional misconduct of the City.
7. General Provisions
 - A. No Personal Liability. No member, official, or employee of the City shall be personally liable to the Food Bank, or any successor or assignee, (a) in the event of any default or breach by the City, (b) for any amount which may become due

to the Food Bank or its successor or assign, or (c) pursuant to any obligation of the City under the terms of this Contract.

- B. No Waiver. No delay in exercising any right or remedy shall constitute a waiver. No waiver by the City or the Food Bank of the breach of any covenant of this Contract shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Contract.
- C. Notices. All notices to be given under this Contract, or which may be given by either Party to the other, shall be considered validly given and fully received when made in writing and delivered or refused delivery by means of prepaid service by:

deposit in the United States Postal Service by certified mail, return receipt requested, and postage prepaid,

personal delivery by a process server or

sent by a nationally recognized courier (e.g., Federal Express, U.P.S.)

and addressed to the respective Parties as follows:

If to the City -

City Manager
City of San Luis
P.O. Box 1170 (by United States Postal Service)
San Luis, Arizona 85349

1090 East Union Street (by personal process or courier)
San Luis, Arizona

Copy to
San Luis City Attorney
City of San Luis
P.O. Box 1170
San Luis, Arizona 85349

If to the Food Bank

Executive Director
Yuma Community Food Bank
2404 E. 24th Street, Yuma, AZ 85365
Yuma, Arizona 85365

or such other addresses as either Party may from time to time designate in writing and deliver in a like manner. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective.

D. Compliance with Laws

Laws around Food Distribution. The Food Bank agrees that in the distribution of food, it will comply with all federal, state, and local statutes, laws, ordinances, rules, and regulations, including, but not limited to, all rules and regulations of the Yuma County Health Department.

Conflict of Interest. This Contract is subject to the cancelation provisions of A.R.S. §38-511.

Employment Eligibility. Food Bank warrants it complies 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 warranty shall be deemed a material breach of this Contract. The City retains the legal right to inspect the papers of Food Bank to ensure that Food Bank complies with this warranty.

No forced labor of ethnic Uyghurs in the People's Republic of China. Under A.R.S. § 35-394, by signing this Contract, Food Bank certifies that it does not currently, and agrees for the duration of the Contract that it will not, use:

The forced labor of ethnic Uyghurs in the People's Republic of China.

Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

Any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

If Food Bank becomes aware during the term of the Contract that it is not in compliance with the above certification, the company shall notify the City within five business days after becoming aware of the noncompliance. If Food Bank does not provide the City with a written certification that Food Bank has remedied the noncompliance within one hundred eighty days after notifying the City of the noncompliance, the Contract terminates, except that if the Contract termination date occurs before the end of the remedy period, the Contract terminates on the Contract termination date.

E. Governing Law. This Contract is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona, including choice of law.

F. Attorney's Fees. In the event either Party finds it necessary to bring any action at law or other proceeding, including arbitration, against the other Party to enforce any of the terms, covenants, or conditions hereof, or by reason of any breach or default hereunder, the Party prevailing in any such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other Party. In the event said prevailing Party secures any judgment, all such costs and

attorney's fees shall be included therein, such fees to be set by the court and not by jury.

- G. Venue. Any legal action relating to this Contract shall be brought in either the Yuma County Superior Court or in the United States District Court for the District of Arizona at the election of the plaintiff in such legal action, provided, however, that nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court which does not otherwise have jurisdiction to adjudicate the legal action.
- H. Severability. Every provision of this Contract is and will be construed to be a separate and independent covenant. If any provision of this Contract or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Contract or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability, and each provision of this Contract will be valid and will be enforced to the extent permitted by the law, and the Parties will negotiate in good faith for such amendments of this Contract which may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.
- I. Headings. The descriptive headings of the paragraphs of this Contract are inserted for convenience only. They shall not control or affect the meaning or construction of any of the provisions in this Contract.
- J. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Contract.
- K. Time of the Essence. Time is of the essence of this Contract.
- L. No Partnership and Third Parties. It is not intended by this Contract to, and nothing contained in this Contract shall create any partnership, joint venture, or other similar arrangement between the City and the Food Bank. No term or provision of this Contract is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party to this Contract. No such other person, firm, organization, or corporation shall have any right or cause of action under this Contract.
- M. Assignment. The rights of each Party under this Contract are personal to that Party. They may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other Party.
- N. Amendment. No change or additions are to be made to this Contract except by written amendment executed by the Parties.

- O. Ratification. Acts taken in compliance with this Contract but prior to its execution are hereby ratified and confirmed.
- P. Force Majeure. No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Contract, for any failure or delay in fulfilling or performing any term of this Contract when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's reasonable control, including, without limitation, the following *force majeure* events that frustrate the purpose of this Contract: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or regulation; (e) actions, embargoes or blockades in effect on or after the date of this Contract; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) epidemic or pandemic; (j) state of emergency; (k) shortage of power or transportation facilities; and (l) other similar events beyond the reasonable control of the Impacted Party that frustrate the purpose of this Contract.
- Q. Authority. The undersigned represent to each other that they have full power and authority to enter into this Contract and that all necessary actions have been taken to give full force and effect to this Contract.
- R. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts, and such signature pages all attached to a single instrument so that the signature of all Parties may be physically attached to a single document/
- S. Entire Contract. This Contract constitutes the entire agreement between the Parties pertaining to the subject matter of this Contract. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, are by this Contract superseded and merged into this Contract.

[Intentionally left blank. The signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Contract in Yuma County, Arizona.

City of San Luis, Arizona

Nieves Riedel, Mayor

Date: _____

ATTEST:

Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

Kay Marion Macuil, City Attorney

Yuma Community Food Bank

Signature

Print Name: _____

Title: _____

Date: _____