

WHEN RECORDED MAIL TO:



CITY OF SAN LUIS
ATTN: SONIA CORNELIO, CITY CLERK
P.O. BOX 1170
SAN LUIS, ARIZONA 85349

The above area is to be reserved for recording information

CAPTION HEADING:
Resolution No. 1088
Use of Public Safety Training Facility

RECEIVED
2016 NOV 28 P 12:30
CITY OF SAN LUIS
OFFICE OF THE CITY CLERK



Resolution

No. 1088

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND THE CITY OF YUMA FOR USE OF THE PUBLIC SAFETY TRAINING FACILITY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA;

WHEREAS, the City of San Luis desires to enter into an Intergovernmental Agreement with the City of Yuma for use of the Public Safety Training Facility for the purpose of training of personnel and related activities; and

WHEREAS, the parties to the Intergovernmental Agreement desire to enter said agreement; and

NOW, THEREFORE, BE IT RESOLVED by the Major and Council of the City of San Luis, Arizona, as follows;

1. THAT the Intergovernmental Agreement, as attached here, is hereby approved;
2. THAT City Manager or designee are hereby authorized and directed to enter into said agreement on behalf of the City of San Luis and take any and all actions as may be necessary to effectuate said agreement;

PASSED AND ADOPTED by the San Luis City Council, this 11th day of March, 2015.


Gerardo Sanchez, Mayor

ATTEST:


Sonia Cornelio, City Clerk

APPROVED AS TO FORM:


for Glenn Gimbut, Esq., City Attorney

RECEIVED INTERGOVERNMENTAL AGREEMENT

USE OF THE CITY OF YUMA PUBLIC SAFETY TRAINING FACILITY

2016 NOV -1 P 5: 59

This Intergovernmental Agreement with an effective date of June 15, 2015,
CITY OF SAN LUIS
OF YUMA and between the City of Yuma, (hereinafter the "City") and the City of San Luis,
Arizona, (hereinafter the "User Agency").

I. PURPOSE

The Parties desire to enter into this Agreement for the purpose of establishing terms and conditions whereby the User Agency is permitted to use the City's Public Safety Training Facility (the "PSTF") for training of personnel and related activities.

II. USE OF THE PSTF

Permissible uses of the PSTF by the User Agency shall include training of sworn officers, fire fighters, civilian personnel, and volunteers, or such other uses as deemed appropriate by mutual agreement of the Parties. Use of the PSTF shall be scheduled in advance in the manner and in the form prescribed by the City.

III. AUTHORITY

The Parties are authorized to enter into this Agreement pursuant to A.R.S. §§11-951, et. seq., and A.R.S. §13-3872.

IV. DURATION, RENEWAL AND TERMINATION

This Agreement shall continue in full force and effect for an initial term of five (5) years and may be renewed for an additional five (5) year period upon written request by the User Agency to the City no less than sixty (60) days prior to the date of expiration of the current term. The decision to renew shall be in the sole discretion of the City.

This Agreement may be terminated by either Party, with or without cause, upon thirty (30) days notice to the other Party. Within ten (10) days following termination or non-renewal of this Agreement, the User Agency shall return any and all property of City unless otherwise agreed in writing by the Parties.

V. USE FEES AND OTHER CHARGES

The User Agency agrees to pay fees to the City for the use of the PSTF pursuant to this Agreement in such amounts as may from time to time be established by the City and incorporated into a written schedule of use fees. The User Agency also agrees to pay for any and all consumable product replacement, repair and/or replacement of property and/or loaned equipment at the PSTF that is or may be damaged, destroyed or rendered inoperable as result of the User Agency's use of the PSTF pursuant to this

Agreement. Use fees and other charges as provided herein shall be due and payable upon receipt by the User Agency of the City's written invoice itemizing said fees and charges.

VI. EQUIPMENT REQUIREMENTS

Prior to use of the PSTF pursuant to this Agreement, the City shall provide to the User Agency a written list of supplies and equipment that specifies the equipment and materials that will be necessary for the User Agency's personnel to properly use the PSTF. The User Agency shall obtain all listed equipment and supplies prior to its use of the PSTF.

VII. SUPERVISION AND CONTROL

The City may assign a monitor to ensure the appropriate use of the PSTF. All instructors or support personnel must be supplied by the User Agency. The City reserves the right, in its sole discretion, to immediately terminate any use of the PSTF if it is determined that such use has resulted or may result in damage to the PSTF or if such use otherwise presents a threat to the safety of persons or property.

VIII. EMPLOYMENT STATUS AND COMPENSATION/RELATIONS OF THE PARTIES

Each of the Parties shall provide required workers' compensation insurance, salary, benefits, and appropriate equipment for their respective employees.

Except as otherwise provided by law, in the performance of this Agreement, each Party will be acting in its individual governmental capacities and not as agents, employees, partners, joint ventures, or associates of each other. The employees, agents, or subcontractors of one Party shall not be deemed or construed to be the employees or agents of the other Party.

IX. WORKERS' COMPENSATION/POSTING OF NOTICES

Pursuant to A.R.S. §23-1022(D), for the purposes of workers' compensation coverage, all employees of the City and User Agencies operating under this Agreement shall be deemed to be an employee of both agencies. The primary agency shall be solely liable for payment of workers' compensation benefits.

The City agrees to provide any postings or notices to employees as required by A.R.S. §23-1022(E) or as otherwise provided by law.

X. NON-DISCRIMINATION

The Parties to this Agreement shall comply with all applicable provisions of State and Federal non-discrimination laws and regulations including, but not limited to, State

Executive Order No. 99-A, which mandates that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities and all other Federal and State employment and education opportunity laws, rules and regulations, including the Americans with Disabilities Act. No Party shall engage in any form of illegal discrimination with respect to applications for employment or student status or employees or students.

XI. INDEMNIFICATION

Liability

- (a) **Assumption of Risk; Indemnity.** User Agency agrees to conduct its activities on the PSTF in a careful and safe manner. As a material part of the consideration to the City, User Agency agrees to assume all risk of damage to and loss or theft of User Agency's property or the property of persons attending or participating in User Agency's activities while such property is stored or used on the PSTF, damage to the PSTF, and injury or death to persons arising from or related to User Agency's use or occupancy of the PSTF in, upon, or about the PSTF from any cause, and User Agency waives all claims against the City. User Agency further agrees to indemnify, hold harmless and defend the City and its officers, members, managers, agents and employees, against all claims, suits, liabilities, costs, damages and expenses (including reasonable attorney's fees) related to, arising out or alleged to arise out of, or in connection with: (i) User Agency's use or occupancy of the PSTF, or any activity or thing done, performed or suffered by User Agency, its agents, its contractors, its employees, licensees, invitees or persons attending or participating in User Agency's activities in or about the PSTF by reason of any act, omission or negligence of User Agency, any of its agents, its contractors, its employees, licensees, or invitees, or persons attending or participating in User Agency's activities; (ii) any loss, injury, death or damage to persons or the PSTF on or about the PSTF by reason of any act, omission or negligence of User Agency, or any of its agents, its contractors, its employees, licensees or invitees, or persons attending or participating in User Agency's activities; or (iii) any breach or default in the performance of any obligation on User Agency's part to be performed under the terms of this Agreement.
- (b) **Limitation on Negligence of the City; PSTF Accepted "As Is".** User Agency hereby acknowledges and agrees that the City has given User Agency full prior access to all portions of the PSTF for inspection of the PSTF to determine its suitability for the intended use, including the right to inspection of the PSTF prior to any scheduled use. User Agency acknowledges that User Agency's personnel who conducted such inspections have all the relevant structural, materials, electrical and other expertise necessary to make such a determination, and that any failure of User Agency's said personnel to locate any such defect whatsoever which might lead to any of the losses, damage or liability indemnified against under paragraph (a) above, or User Agencies' failure to inspect, will constitute negligence on the part of the User Agency and its inspectors, and will not be

considered negligence on the part of the City. The City is providing User Agency with the use of the PSTF solely on an "As Is" basis, and User Agency agrees not to conduct any activities on any portion of the PSTF which User Agency and its qualified employees have not fully inspected and found to be suitable and safe for the intended use at the time such use is undertaken. User Agency hereby represents and warrants to the City that the foregoing provisions are not in violation of any limitation on any certificate of insurance which User Agency has provided to the City hereunder, and that nothing in this Agreement will cause any such insurance or certificate of insurance to be invalid.

XII. INSURANCE

In addition to compliance with the indemnity provisions as set forth in Section XI of this Agreement, the User Agency shall obtain and maintain general liability insurance coverage in an amount and in such forms as necessary to protect the City and the User Agency against any and all claims arising from the User Agency's use of the PSTF pursuant to this Agreement, including, but not limited to, claims arising from the acts, omissions or negligence of the User Agency, its officers, employees, contractors, invitees or agents, or persons attending or participating in User Agency's activities and against any and all claims arising from injuries or damages, however caused, sustained by any person or persons or to the property of any person, persons or other entities, including the City, occurring during such use. User Agency, at its expense, shall procure and maintain during the term of this Agreement a policy of commercial general liability insurance in an amount of not less than Three Million Dollars (\$3,000,000.00), single limit, Five Million Dollars (\$5,000,000.00), aggregate, against claims for bodily injury, death and property damage occurring in connection with User Agency's use of the PSTF. Any such insurance shall name the City as an additional insured. User Agency understands and agrees that the certificate of insurance is a condition precedent to use of the PSTF. All policy forms shall be subject to review and approval of the City. Prior to the effective date of this Agreement the User Agency shall provide the City with certificates of insurance with formal Endorsements and such other documents as may be requested by the City in order to confirm the existence and adequacy of the insurance coverage specified herein. The User Agency shall notify the City no less than ten days prior to any changes in coverage including policy forms, policy limits, cancellations, non-renewals or changes in insurance carriers. The Parties understand and agree that the policy limits or other provisions of insurance coverage obtained and maintained pursuant to this Section shall in no way limit the User Agency's indemnification obligations pursuant to Section XI of this Agreement.

XIII. INSTITUTIONAL REVIEW PROCESS

Prior to the use of the PSTF, User Agency shall deliver to the City written descriptions of the User Agency's training program and specific details as to the use of the PSTF and specific activities, including without limitation any special devices used in the training experience. User Agency agrees that the City may request that any individual such activities not be undertaken, in the City's discretion. The foregoing notwithstanding, the

City's failure to object to any such activities so disclosed shall not constitute negligence on the part of the City under any circumstances, and User Agency shall remain fully responsible for the safe conduct of all such activities. User Agency hereby acknowledges and agrees that no explosive charges will be detonated without the prior written consent of the City and that no live firearms will be discharged in the course of any of the use of the PSTF.

XIV. ENVIRONMENTAL REGULATIONS

User Agency will not permit any Hazardous Substance to be used, stored, generated or disposed of on, in or about, or transported to or from, the PSTF, by User Agency, User Agency's officers, employees, contractors, invitees, agents, or persons attending or participating in User Agency's activities without first obtaining the City's written consent, which the City may give or withhold in its sole discretion, or revoke at any time. If the City consents, all Hazardous Substances must be handled at User Agency's sole costs and expense, in compliance with all applicable state, federal or local governmental requirements, using all necessary and appropriate precautions. If User Agency breaches these obligations or if the presence of Hazardous Substances on, in or about the PSTF caused or permitted by User Agency results in contamination of any part of the PSTF, or if contamination of any part of the PSTF, or if contamination by Hazardous Substance otherwise occurs in a manner for which User Agency is legally liable, then User Agency will indemnify and hold harmless the City from and against any and all claims, actions, damages, fines, judgments, penalties, costs, liabilities, losses and expenses (including without limitation, any sums paid for settlement of claims, court costs, attorneys' fees, consultant and expert fees) arising during or after the expiration or termination of this Agreement as a result of any breach or contamination. Without limitation, if User Agency causes or permits the presence of any Hazardous Substance on, in or about the PSTF and this results in contamination of any part of the PSTF, User Agency will promptly, at its sole cost and expense, take all necessary actions to return the PSTF and any adjacent facility to the condition existing prior to the presence of any Hazardous Substance; provided, however, User Agency shall first obtain the City's approval for any such remedial action. "Hazardous Waste" or a "Hazardous Substance" as used herein are defined terms pursuant to state, federal or local government law. "Hazardous Substance" includes but is not restricted to asbestos, polychlorobiphenyls and petroleum.

XV. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding of the Parties with respect to the subject matter thereof. Any amendment or modification of this Agreement shall be made only by a written instrument executed by authorized representatives of the Parties.

XVI. SEVERABILITY

The Parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the Parties.

XVII. GOVERNING LAW AND VENUE

Interpretation of this Agreement will be in accord with the laws of the State of Arizona. The Parties understand and agree that any litigation arising out of this Agreement shall be deemed to be within the jurisdiction of the Superior Court for Yuma County.

XVIII. CONFLICT OF INTEREST

This Agreement is subject to cancellation pursuant to A.R.S. §38-511, the pertinent provisions of which are incorporated herein.

XIX. NOTICES

All notices, requests for payment, or other correspondence between the Parties regarding this Agreement shall be mailed or delivered to the respective Parties at the addresses set forth below or at such alternate addresses as may be specified in writing:

City of Yuma:

Gregory K. Wilkinson
One City Plaza
Yuma, AZ 85364-1436

User Agency: City of San Luis

Robert Eads, City Administrator
1090 E. Union Street
San Luis, AZ 85349

XX. ASSIGNMENT

This contract is not assignable unless both parties mutually consent otherwise in writing. The requirements of this contract are binding upon the heirs, executors, administrators, successors and assigns of both Parties.

XXI. DISPUTE RESOLUTION

Claims, disputes or other matters in question between the Parties relating to this Agreement or breach thereof may be decided by arbitration in accordance with the Arizona Uniform Rules of Procedure for Arbitration if the parties mutually agree. Request for arbitration must be filed in writing with the other party to this Agreement.

XXII. NO PARTNERSHIP

Nothing in this Agreement constitutes a partnership or joint venture between the parties, and neither party is the principal or agent of the other.

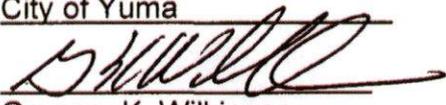
XXIII. EMPLOYMENT ELIGIBILITY

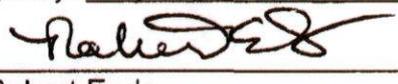
Each party warrants, and shall require its subcontractors to warrant, that it is in compliance with all federal immigration laws and regulations that relate to its employees and with A.R.S. § 23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of this Agreement. The parties retain the legal right to inspect the papers of any party or subcontractor employee who works on this Agreement to ensure that the other party or its subcontractors are complying with this warranty.

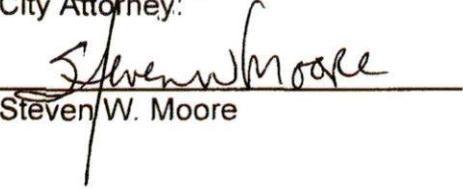
XXIV. DEFAULT

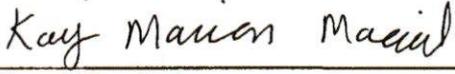
If User Agency fails to comply with or observe any other provision of this Agreement, in addition to any other remedy that may be available to the City, whether at law or in equity, the City may immediately terminate this Agreement and any and all rights of User Agency.

XXV. APPROVALS

For: City of Yuma
By: 
Gregory K. Wilkinson
Its: City Administrator
Date: June 15, 2015

User Agency: City of San Luis
By: 
Robert Eads
Its: City Administrator
Date: _____

Attest:
City Clerk: 
Lynda L. Bushong
City Attorney: 
Steven W. Moore

Date: June 15, 2015
Assistant City Attorney: 
Kay Marion Maciel
City of San Luis

CERTIFICATE OF INSURANCE

ISSUE DATE
03/02/2015

ADMINISTRATOR

Southwest Risk Services
14902 North 73rd Street
Scottsdale, AZ 85260
(602) 996-8810

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

INSURED

City of San Luis
PO Box 1170
San Luis, AZ 85349

COMPANY
LETTER A ARIZONA MUNICIPAL RISK RETENTION POOL
COMPANY
LETTER B
COMPANY
LETTER C
COMPANY
LETTER D

COVERAGES

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR PERTAIN, THE INSURANCE AFFORDED BY THE POLICES DESCRIBED HERE IN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCURRENCE	AM40172014	07/01/2014	07/01/2015	EACH WRONGFUL ACT \$2,000,000 PROD COMP/OPS AGGR \$2,000,000 PERSONAL & ADV INJURY \$2,000,000 FIRE DAMAGE(1 FIRE) \$300,000 MEDICAL EXP(1 PERSON) \$5,000 COMBINED SINGLE LIMIT
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY EXCESS LIABILITY				EACH WRONGFUL ACT AGGREGATE
	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				(EACH ACCIDENT) (DISEASE-POL LMT) (DISEASE-EACH EMP)
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Regarding vicarious liability arising out of the use of the police Training Facility at 3575 South Avenue 4E Yuma, AZ by the City of San Luis.

CERTIFICATE HOLDER

ADDITIONAL INSURED

City of Yuma
One City Plaza
Yuma, AZ 85365

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED SIGNATURE

Edward A. Bove