



Resolution

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

NO. 1116

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND THE CITY OF SOMERTON, ARIZONA FOR FIREFIGHTER PERSONNEL SERVICES

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of San Luis, State of Arizona, as follows:

Section 1: That the Intergovernmental Agreement, as attached hereto as Exhibit "A", is hereby ratified and approved.

Section 2: That the appropriate City officials are hereby authorized and directed to enter into said agreement on behalf of the City and take any and all actions as may be necessary to effectuate said agreement.

PASSED AND ADOPTED by the Mayor and Common Council of the City of San Luis, Arizona, this 14th day of October, 2015.

Gerardo Sanchez, Mayor

ATTEST:

Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

for Glenn Gimbut
City Attorney

INTERGOVERNMENTAL AGREEMENT FOR PROVISION OF FIRE PERSONNEL
SERVICES

THIS INTERGOVERNMENTAL AGREEMENT is entered into on the 14th day of October, 2015 by and between the City of Somerton, Arizona, an Arizona municipal corporation, dba Somerton Fire Department (“Somerton”), and the City of San Luis, Arizona, dba San Luis Fire Department, an Arizona municipal corporation (“San Luis”).

RECITALS

- A. Whereas, Somerton and San Luis entered into an Intergovernmental Agreement for the provision of fire personnel services dated June 22, 2011, hereinafter referred to as “2011 Fire Personnel IGA”; and
- B. Whereas, Somerton desires to continue to provide and station fire personnel in the San Luis; and
- C. Whereas, San Luis desires to provide for the health, safety and general welfare of its citizens, residents, and inhabitants with respect to fire services; and
- D. Whereas, A.R.S. §9-500.20 provides, in part, that a city or town may provide or assist in providing emergency fire and emergency medical services outside of its corporate limits if those services are provided at the request of any fire department; and
- E. Whereas, A.R.S. §11-952 provides that cities may enter into agreements for joint or cooperative action; and
- F. Whereas, Somerton and San Luis desire to enter into this agreement on the terms and conditions hereinafter stated;

AGREEMENT

NOW THEREFORE, for and in consideration of the foregoing, the mutual promises, covenants, and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Commencement Date**. The parties hereto hereby acknowledge and agree that the 2011 Fire Personnel IGA shall continue in full force and effect according to its terms until such time as this agreement shall commence. This Agreement shall commence on the date of the final approval of this Agreement by the parties hereto and execution hereof by their authorized agents, and at such time as the City of San Luis commences operation of an

ambulance in accordance with the certificate of necessity granted to the City of San Luis by the Arizona Department of Health Services.

2. **Term.** The term of this Agreement shall be for two years from the date described in paragraph 2, above. Either party may terminate this agreement at any time upon giving thirty (30) days written notice to the other party.

3. **Placement and Housing of Firefighters.** Somerton desires to station fire personnel in the City of San Luis in order to support its operations. Said personnel shall be available for fire and emergency medical services in the City of San Luis. Said personnel may be housed at fire department facilities of San Luis. The personnel stationed shall, at a minimum, be at least one firefighter who is a qualified paramedic, and one firefighter who is a qualified emergency medical technician.

4. **Housing Charge.** Somerton may locate and house its firefighting personnel at the San Luis Fire Station. Such personnel may use all facilities of the San Luis Fire Station including showers, restrooms, laundry facilities, and bed facilities. San Luis shall charge Somerton a fee of \$125.00 per day per firefighter housed and stationed at the San Luis Fire Station. In the event Somerton faces financial exposure as a result of stationing personnel within San Luis, San Luis agrees that it will modify charges accordingly. At all times actual out of pocket costs of San Luis will be paid.

5. **Administrative Control and Staffing.** Personnel of Somerton stationed in San Luis shall be available to perform emergency services to all areas served by the Somerton Cocopah Fire Department. San Luis remains committed to assist Somerton pursuant to all mutual aid agreements. The Fire Chief of San Luis is hereby appointed a Deputy Chief of the Somerton Cocopah Fire Department, at no cost to Somerton, for the purposes of scheduling, supervision, and operation of the stationed personnel of Somerton. .

6. **Insurance.**

Somerton shall carry all insurance with respect to its personnel and operations in the municipal limits of San Luis as may be required by all federal, state, county, and local laws, ordinances, charters, rules, regulations and codes.

7. **Indemnity by Somerton.**

(a) To the fullest extent permitted by law, Somerton shall defend, indemnify and hold harmless San Luis, its Mayor and Council, appointed boards and commissions, officials, officers, and employees, individually and collectively from and against all claims, lawsuits or assertions of liability, caused in whole or in part by any negligent act or omission of Somerton or any of its employees or agents arising out of its operations.

(b) Somerton's duty to defend, indemnify and hold harmless San Luis, its agents, representatives, officers, directors, officials and employees shall arise in connection with

any claim, damage, loss or expense (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) that is attributable to personal or bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting there from, caused in whole or in part by any negligent act or omission of Somerton or any of its employees or agents with regards to its operations in the municipal limits of San Luis.

(c) Somerton agrees to indemnify, defend and hold harmless the San Luis, Mayor and Council, appointed boards and Commissions, officials, officers, and employees, individually and collectively from and against any and all penalties and damages incurred by San Luis as a result of Somerton's failure to obtain any permit or license required under, or to comply with any applicable laws, ordinances or regulations.

(d) The amount and/or types of insurance coverage requirements set forth in this Agreement will in no way be construed as limiting the scope of indemnity in this Section.

8. Indemnity by San Luis.

(a) To the fullest extent permitted by law, San Luis shall defend, indemnify and hold harmless Somerton, its Mayor and Council, appointed boards and commissions, officials, officers, and employees, individually and collectively from and against all claims, lawsuits or assertions of liability, caused in whole or in part by any negligent act or omission of San Luis or any of its employees or agents..

(b) San Luis's duty to defend, indemnify and hold harmless Somerton, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) that is attributable to personal or bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting there from, caused in whole or in part by any negligent act or omission of San Luis or any of its employees or agents.

(c) San Luis agrees to indemnify, defend and hold harmless Somerton, its Mayor and Council, appointed boards and Commissions, officials, officers, and employees, individually and collectively from and against any and all penalties and damages incurred by Somerton as a result of San Luis's failure to obtain any permit or license required under, or to comply with any applicable laws, ordinances or regulations.

(d) The amount and types of insurance coverage requirements set forth in this Agreement will in no way be construed as limiting the scope of indemnity in this Section

(e) San Luis agrees to indemnify and hold Somerton harmless from any and all claims, damage, loss or expense (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) that is attributable to any legal challenge to the efficacy of this agreement.

19. Arbitration and Default

A. Representatives. To further the cooperation of the parties in implementing this Agreement, Somerton and San Luis each shall designate and appoint a representative to act as a liaison between Somerton and San Luis. The initial representative for the Somerton (the "Somerton Representative") shall be its Fire Chief and the initial representative for San Luis (the San Luis Representative) shall be its Fire Chief. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement. .

B. Arbitration. In the event of any dispute arising between the parties involving this Agreement or any matter relating to the corporation, the parties agree to binding arbitration, to be conducted pursuant to the Rules of Arbitration utilized in Yuma County, Arizona Superior Court, Local Rule X. Arbitration shall include reasonable attorney fees and costs to the prevailing party.

C. Default. Failure or unreasonable delay by any party to perform any term or provision of this Agreement for a period of ten (10) days after written notice thereof from another party shall constitute a default under this Agreement. If the default is of a nature which is not capable of being cured within ten (10) days, the cure shall be commenced within such period, and diligently pursued to completion. The notice shall specify the nature of the alleged default and the manner in which the default may be satisfactorily cured. In the event of a default hereunder by any party, the non-defaulting party shall be entitled to all remedies at both law and in equity, including, without limitation, termination, specific performance, and/or the right to perform the obligation(s) of which the defaulting party is in default and to immediately seek reimbursement from the defaulting party of all sums expended in order to cure such default, together with interest on all such sums from the date said sums are expended by the non-defaulting party for the purpose of curing the default to the date such sums are paid in full.

10. Conflict of Interest; Representatives Not Individually Liable.

A. Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of either Somerton or San Luis shall have any personal interest, direct or indirect in this Agreement, nor shall any such member, official or employee participate in any decision relating this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

B. No Personal Liability. No member, official or employee of Somerton or San Luis shall be personally liable to either party to this agreement, or any successor or assignee, (a) in the event of any default or breach by either party, (b) for any amount which may become due to either party, or (c) pursuant to any obligation of either party under the terms of this Agreement.

11. Miscellaneous Provisions

A. Notices. All notices and communications provided for herein, or given in connection herewith, shall be validly made if in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid to:

If to San Luis: City Administrator
P.O. Box 1170
1090 East Union Street
City, AZ 85349

If to Somerton: City Administrator
P.O. Box 638
110 North State Street
Somerton, AZ 85350

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. Notices given by mail shall be deemed delivered 72 hours following deposit in the United States Postal Service in the manner set forth above.

B. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

C. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

D. Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement.

E. Compliance With A.R.S. § 23-214. A.R.S. §23-214 imposes requirements upon employers to verify the employment eligibility of all of its employees as set forth in that statute and its related definitions. Both the City of Somerton and the City of San Luis hereby represent that they are in compliance with said law and will continue to be in compliance. By signing below, each represents and warrants that they are in full compliance with all federal, state, and local laws, rules, and regulations regarding employment eligibility of all its employees, including use of the requirements of A.R.S. § 23-214, and they shall remain in compliance during the term of this agreement.

F. Entire Agreement. This Agreement, including the following exhibits, constitutes the entire agreement between the parties.

G. Amendment of the Agreement. This Agreement may be amended, in whole or in part, only with the mutual written consent of the parties to this Agreement or by their successor in interest or assigns. The parties shall record the amendment or cancellation in the official records of the Yuma County Recorder.

H. Severability. If any other provision of the Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.

I. Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. The parties agree that venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Yuma County, Arizona, and the parties hereby waive any right to object to such venue.

J. Recordation of Agreement and Subsequent Amendment; Cancellation. This Agreement, and any amendment or cancellation of it shall be recorded in the official records of the Yuma County Recorder no later than ten (10) days after the parties execute such agreement amendment or cancellation.

K. Attorney's Fees and Costs. If either party brings a legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party will be entitled to reasonable attorney's fees and court costs.

L. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.

M. No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the parties.

N. Non-Liability of Municipal Officials and Employees. Except for mandamus and other special actions, no member, official or employee of either Somerton or San Luis shall be personally liable to either party, or any successor in interest, in the event of any default or breach by either party or for any amount that may become due to either party or successor, or under any obligation under the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF SAN LUIS, an Arizona
Municipal Corporation

By: [Signature]
Mayor

Attest:

By: [Signature]
Clerk

THE CITY OF SOMERTON, an Arizona
Municipal Corporation

By: [Signature]
Mayor

Attest:

[Signature]
Clerk

APPROVAL BY ATTORNEY

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

Dated this 14 day of October ^{KMM} ~~200~~ 2015

[Signature]
for City Attorney

APPROVAL BY ATTORNEY

I hereby state that I am the attorney for the City of Somerton, State of Arizona, and pursuant to the provisions of A.R.S. 11-952(d) have determined that the above agreement is in proper form and is within the powers and authority granted to the City of Somerton, Arizona under the laws of the State of Arizona.

Dated this 17 day of Nov. 2005

[Signature]
City Attorney