

**ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION
AND REENTRY
701 East Jefferson Phoenix, Arizona 85034**

AGREEMENT

This Agreement is entered into between the **Town of Eagar**, hereinafter referred to as the **Town**, and **Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR)**, for and on behalf of its **Arizona State Prison Complex Winslow Apache Unit**, hereinafter known as the **Department or ASPC-Winslow-Apache Unit**.

This document, including the Scope of Services, Special Terms and Conditions, Standard Work Provisions, any addendums, attachments or modifications, shall constitute the entire Agreement between the parties and supersedes all other understandings, oral and written.

WHEREAS, the Department is authorized by Arizona Revised Statutes (A.R.S.) § 41-2501 to establish firefighting services to protect the health and safety of persons and property at the Arizona State Prison Complex Winslow-Apache Unit and;

WHEREAS, the Town is authorized by A.R.S. § 9-240 and has firefighting equipment, trained firefighters and the capability to provide said services, and

WHEREAS, the Town has authorized members of the Round Valley Fire and Medical Department to render firefighting services to ASPC-Winslow-Apache Unit,

THEREFORE, IT IS AGREED that the Town will provide firefighting services to ASPC-Winslow-Apache Unit under the terms of this Agreement as specified below:

1. Purpose of Agreement:

- 1.1. To establish fire fighting services to protect the health and safety of persons and property at the Arizona State Prison Complex-Winslow-Apache Unit, located adjacent to U.S. Highway 180 at Mile 383.22.

2. The ADCRR agrees:

- 2.1. To comply with guidelines provided by the Town in making all requests to the Town for assistance in containing fire or incendiary problems. Additionally, the Department shall provide at least the following information when requesting services from the Town:
 - 2.1.1. Type of fire or incendiary problem, e.g. building, brush, etc.
 - 2.1.2. Location of the fire on the grounds of the prison.
 - 2.1.3. Description of the environment surrounding the fire, e.g., simultaneous prison disturbance, efforts by prison staff to contain the fire, etc.
 - 2.1.4. Directions to reach the fire location.
 - 2.1.5. Contact person at the prison facility for the Town firefighters.
- 2.2. Employ internal fire prevention practices and emergency response equipment and procedures, when possible, to control the limit of a fire or incendiary problem until the Town firefighters and equipment arrive on the scene.
- 2.3. Provide an escorted entrance and exit to and from ASPC-Winslow-Apache Unit for assigned Town

firefighters and equipment.

- 2.4. Ensure that a security perimeter, in which no unauthorized personnel shall be permitted, of at least fifty (50) feet outdoors and twenty (20) feet indoors is maintained when Town firefighters are on the scene of a fire in order to provide a safe environment in which the Town firefighters can work.
 - 2.5. To be responsible for damages to Town firefighting equipment resulting from debris, gravel, or sand in the hydrant lines. A legible, detailed invoice shall be provided by the Town within thirty (30) days after the Department has requested services. All invoices shall identify the specific item(s) being billed.
 - 2.6. Provide supplies and services, such as shelter, gasoline and oil for on-site use of the Town's firefighting equipment and personnel providing assistance.
 - 2.7. Permit, upon reasonable notice, the Town Fire Chief, or designee, (subject to necessary security clearance) to inspect the prison unit relative to firefighter safety.
 - 2.8. Keep the Town fully informed of Department policies, procedures and activities that have bearing upon the Town fulfilling assigned obligations under this Agreement.
 - 2.9. Designate an institutional contact person who shall function as a liaison between the Department and the Town in coordinating firefighting services. The Department shall ensure the Town is given the name and telephone number/extension of the contact person.
 - 2.10. Authorize the Town to perform fire prevention services.
3. The Town agrees:
- 3.1. To provide firefighting services to ASPC-Winslow-Apache Unit as Town personnel and equipment shall be available.
 - 3.2. To provide written procedures to the ASPC-Winslow-Apache Unit Deputy Warden advising of appropriate notification processes to be utilized when requesting firefighting services from the Town.
 - 3.3. To comply with necessary security rules and regulations of the Department when providing services at the prison unit.
 - 3.4. To immediately advise the prison staff at the time a request for services is made if Town staff and equipment will be available to provide assistance and, if available, the expected time of arrival at the prison unit.
 - 3.5. To provide at least twenty-four (24) hours notice to the ASPC-Winslow-Apache Unit Deputy Warden when the Town Fire Chief or designee may want to inspect the prison unit for any pre-fire planning or fire safety concerns as necessary.
4. It is Mutually agreed:
- 4.1. The fire protection services provided by the Town to ASPC-Winslow-Apache Unit shall be provided at no cost to the Department.
 - 4.2. The parties and the Arizona Office of the State Fire Marshal shall conduct an annual review and update of Emergency Operations Plans as part of a joint preparedness exercise. The preparedness exercise can be coordinated by the ASPC-Winslow Unit Occupational Safety Consultant (OSC), an authorized representative of the Office of the State Fire Marshal, and the designated Town Representative or Delegates.
 - 4.3. The management of an incident shall remain within the jurisdiction in which the incident occurred. The Town's Fire Department shall assign a representative to report to the prison's Incident Commander.

- 4.4. If an inmate disturbance occurs simultaneously with a fire or incendiary problem and the Town has responded to a request for firefighting assistance, the Town reserves the right to withdraw personnel and equipment when unreasonable danger exists as a result of the disturbance. The determination of unreasonable danger shall be made by the Town in conjunction with the unit Deputy Warden or Warden.
- 4.5. The Town shall make necessary arrangements with the Deputy Warden at ASPC-Winslow-Apache Unit, upon execution of this Agreement, to have the Town Fire Chief and other appropriate representatives of the Town inspect the premises described herein relative to fire response pre-planning.
- 4.6. The firefighting needs of the Town of Eagar shall take priority over other requests for such assistance and, as such, when necessary to ensure adequate protection to the Town, the Fire Department may, on behalf of the Town, decline to respond to a request for assistance from the Department, or may request the return of assigned staff and equipment, if the needs of the Town demand such action. The Town shall not incur any liability for failure to respond or remain at the site of a fire or incendiary problem if such circumstances occur.
- 4.7. Any and all notices, requests or demands given or made upon the parties hereto, pursuant to or in connection with this Agreement, unless otherwise noted, shall be delivered in person or sent by United States Mail, postage prepaid, to the parties at their respective addresses as shown on the signature page of this document.
- 4.8. The parties are hereby put on notice that this Agreement is subject to cancellation pursuant to Arizona Revised Statute A.R.S. § 38-511, the provisions of which are incorporated herein.
- 4.9. Each party shall be responsible for any and all costs including, but not limited to, attorney fees, court costs and other litigation expenses incurred as a result of the errors and omissions of its officers, employees, agents, or assigns arising out of the performance of this Agreement.

5. Term of Agreement

This Agreement shall begin when all signatures are affixed and fully executed by the ADCRR, Procurement Services Office and shall continue for one (1) year thereafter, unless otherwise terminated, canceled or extended, as otherwise provided herein.

6. Agreement Extension

By mutual written signed agreement, this Agreement may be extended by four (4) supplemental periods of up to twelve (12) months each for a total term of sixty (60) months.

7. Termination

This Agreement may be terminated, without cause, by either party by provision of prior written notice to the other. Such **Notice of Termination** shall be effective thirty (30) calendar days after mailing by certified mail, return receipt requested, to the other party.

8. Agreement Changes

Any changes or amendments to this Agreement shall be effective only if made in writing and signed by authorized officials of both parties. All such changes or amendments shall be handled by formal amendment through the ADCRR Procurement Services Office.

9. Confidentiality of Records

The Town shall establish and maintain procedures and controls, that are acceptable to the ADCRR for the purpose of assuring that no information contained in its records or obtained from the ADCRR or from others in carrying out its functions under the Agreement shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Agreement. Persons requesting such information should be referred to the ADCRR. The Town also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the town as needed for the performance of duties under the Agreement, unless otherwise agreed to in writing by the ADCRR.

10. Arbitration

The parties to this Agreement agree to resolve all disputes arising out of or relating to this agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes.

11. Contraband

Contraband means any dangerous drug, narcotic drug, intoxicating liquor or any kind, deadly weapon, dangerous instrument, explosive or any other article whose use of or possession would endanger the safety, security or preservation of order in a correctional facility or any person therein. (Any other article includes any substance which could cause abnormal behavior, i.e., marijuana, nonprescription medications, etc.)

11.1. Promoting prison contraband A.R.S. § 13-2505:

- A person, not otherwise authorized by law, commits promoting prison contraband:
- By knowingly taking contraband into a correctional facility or the grounds of such a facility; or
- By knowingly conveying contraband to any persons confined in a correctional facility; or

- By knowingly making, obtaining, or possessing contraband while being confined in a correctional facility.

11.2. Promoting Prison Contraband is a Class 5 felony.

12. Cancellation

ADCRR reserves the right to cancel the whole or any part of this Agreement due to failure by the Town to carry out any material obligation, term or condition of this Agreement.

13. Subcontracts

The Town shall bear full responsibility for the performance under all applicable subcontracts, shall forward copies to the Procurement Officer and shall retain copies on file.

14. Unlawful Sexual Conduct

14.1. A person commits unlawful sexual conduct by intentionally or knowingly engaging in any act of a sexual nature with an offender who is in the custody of the State Department of Corrections, Rehabilitation and Reentry (ADCRR), the Department of Juvenile Corrections, a private prison facility or a city or county jail or with an offender who is under the supervision of either Department or a city or county. For the purposes of this subsection, "person" means a person who:

- Is employed by ADCRR or the Department of Juvenile Corrections.
- Is employed by a private prison facility or a city or county jail.
- Contracts to provide services with ADCRR, the Department of Juvenile Corrections, a private prison facility or a city or county jail.
- Is an official visitor, volunteer or agency representative of ADCRR, the Department of Juvenile Corrections, a private prison facility or a city or county jail.

14.2. This section does not apply to a person who is employed by ADCRR, a private prison facility or a city or county jail or who contracts to provide services with ADCRR, a private prison facility or a city or county jail or an offender who is on release status if the person was lawfully married to the prisoner or offender on release status before the prisoner or offender was sentenced to ADCRR or was incarcerated in a city or county jail.

14.3. Unlawful sexual conduct with an offender who is under fifteen years of age is a class 2 felony. Unlawful sexual conduct with an offender who is between fifteen and seventeen years of age is a class 3 felony. All other unlawful sexual conduct is a class 5 felony.

14.4. Unlawful sexual conduct; correctional facilities; classification; Definition A.R.S. § 13-1419.

15. Federal Prison Rape Elimination Act 2003

The Contractor shall comply with the Federal Prison Rape Elimination Act of 2003, and all applicable standards. The Contractor shall adopt and comply fully with the standards of PREA.

16. Assignment and Delegation

Neither party may assign any rights hereunder without the express, written, prior consent of both parties.

17. Availability of Funds Availability of Funds for the Next State Fiscal Year. Funds may not presently be available for performance under this Contract beyond the current State Fiscal Year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current State Fiscal Year until funds are made available for performance of this Contract.
18. Availability of Funds for the Current State Fiscal Year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these Materials or Services are not funded, the State may take any of the following actions:
- Accept a decrease in price offered by the contractor;
 - Cancel the Contract; or
 - Cancel the contract and re-solicit the requirements.
19. Audit of Records
Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each Subcontractor to retain any and all Data and other “records” relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
20. Cancellation for Conflict of Interest
Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
21. Non-Discrimination
The Contractor shall comply with State Executive Order Nos. 2023-09, 2023-01, 2009-09, and any and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act. Contractor shall include these provisions in contracts with Subcontractors when required by Federal or State law.
22. Third Party Antitrust Violations
The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern Materials or Services supplied by third parties to the Contractor, toward fulfillment of this Contract.
23. Applicable Law
The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
24. Entire Agreement
This Agreement contains the entire understanding of the parties hereto pursuant to the subject matter of this Agreement. There are no representations or provisions other than those contained herein, any amendment or modification of this Agreement.
25. Offshore Performance of Work involving Data is Prohibited. Any Services that are described in the

specifications or scope of work that directly serve the State of Arizona or its clients and involve access to Data shall be performed within the defined territories of the United States.

26. Government Procurement: E-Verify Requirement A.R.S. §41-4401

In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal Immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.

27. Notices

All notices under this Agreement given by either party to the other shall be in writing and shall be delivered in person, sent by U.S. Postal Service, postage prepaid, by email and addressed to the following individuals:

Town of Eagar:

Attn: Brannon Eagar, Town Manager
Address: P.O. Box 1300
Eagar, AZ 85925
Phone: (928) 333-4128
Email: b.eagar@eagaraz.gov

**Arizona Department of Corrections,
Rehabilitation and Reentry:**

Attn: Kerry Wells, Chief Procurement Officer
Address: 701 East Jefferson
Phoenix, Arizona 85034
Phone: (602) 377-2322
Email: kerry.wells@azdoa.gov

28. Indemnification

Each party (as "indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, (State Agency) is self-insured per A.R.S. § 41-621.

Authorized Signature Date

Name: Steve Erhart
Title: Mayor
Town of Eagar

Authorized Signature Date

Name: Kerry Wells
Title: Chief Procurement Officer,
ADCRR

Prepared by: Nora Valenzuela, Senior Procurement Specialist
Date: March 20, 2024