

RESOLUTION NO. 2163

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE UNITED STATES FOREST SERVICE TO PERMIT THE CREATION OF A FUEL BREAK ON THE WEST AND SOUTH BOUNDARIES OF THE TOWN.

WHEREAS, because of the overgrowth of the National Forest surrounding the Town of Payson, wild fires are a real and present danger to the citizens of the Town of Payson; and

WHEREAS, a fuel break on National Forest lands on the West and South boundaries of the Town would help to reduce such danger; and

WHEREAS, the Agreement, attached hereto and marked Exhibit "A," would allow the Town and the Forest Service to begin the process of creating such a fuel break; and

WHEREAS, the Town of Payson has found that the adoption of this Resolution Number 2163 is necessary and appropriate to protect the health, safety, and welfare of the citizens of the Town of Payson as a lawful exercise of police power vested in the Town by the State of Arizona; and

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Agreement with the United States Forest Service allowing the Town and the Forest Service to work together to create a fuel break on the West and South Boundaries of the Town, a true and correct copy of which is attached hereto marked Exhibit "A" and made a part hereof by this reference, as though set forth in full at this point, be and is hereby approved in substantially the form attached.

Section 2. That Barbara G. Brewer, Mayor of the Town of Payson, be and is hereby authorized to execute said Agreement with the Forest Service in substantially the form as is attached.

Section 3. That the Town of Payson is authorized to take such other and further actions as may be necessary or appropriate to carrying out the terms and intent of said Agreement and this Resolution No. 2163.

APR 13 2006 G.4

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE
TOWN OF PAYSON, ARIZONA, this _____ day of April, 2006, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Barbara G. Brewer, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

Forest Service Agreement No: 06-PA-11031200-020
Cooperator Tax ID: _____
Cooperator Agreement No: _____

PARTICIPATING AGREEMENT
between
USDA, FOREST SERVICE
TONTO NATIONAL FOREST DISTRICT
and
TOWN OF PAYSON
FIRE DEPARTMENT

This PARTICIPATING AGREEMENT is hereby entered into by and between the USDA Forest Service, Tonto National Forest, hereinafter referred to as the Forest Service and the Town of Payson, Fire Department, hereinafter referred to as the Town of Payson Fire Department under the authority of the Cooperative Funds and Deposits Act of December 12, 1975, Pub. L. 94-148, 16 U.S.C. 565a1 – a3.

A. PURPOSE:

The purpose of this Agreement is to allow the Forest Service and the Town of Payson Fire Department to work together to create a 300 foot shaded fuel break on the West and South boundaries of the Town of Payson. The shaded fuel break will encompass approximately 350 acres on National Forest lands managed by the Tonto National Forest. This shaded fuel break is critical for protection of the Town of Payson from unwanted wildfires coming from Forest lands and could be maintained over several years.

This initial project under this Agreement allows the Town of Payson Fire Department to provide a contractor to cut brush, cut dead trees, cut live trees, and pile the cut debris on Forest Lands using funds donated by the community and Gila County. The Forest Service will contribute to this project by providing personnel and vehicles needed to layout the project area, provide project specifications, and monitor the project work. The Forest Service and the Town of Payson Fire Department estimate the initial project will be completed by Summer 2006.

B. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The Town of Payson Fire Department is a department in the Municipality of the Town of Payson. The Town of Payson Fire Department is charged with the protection of private land from fire, educating the citizens on Fire Wise issues, and helping citizens Fire Wise the Municipality of Payson.

EXHIBIT A TO RESOLUTION 2163

The Forest Service is charged with protection on natural resources on Forest system lands and protecting the life and property, as possible, of communities and homes from destructive wildfires by properly managing the adjacent forest lands.

This joint project will benefit the Town of Payson by constructing a critical shaded fuel break that protects the community of Payson. The Forest Service will benefit by having a fuel break that serves as a place firefighters can make a stand against an unwanted wildfire that threaten Payson.

C. THE FOREST SERVICE SHALL:

1. Provide personnel and vehicles needed to:
 - layout the project area,
 - provide specifications on cutting and piling, and
 - oversee the inspection process during the contract period.

D. THE TOWN OF PAYSON FIRE DEPARTMENT SHALL:

1. Enter into a contract with a qualified contractor to cut brush, cut dead trees, cut green trees, and pile the debris.
2. Provide oversight on the inspection of the contract during the contract period.
3. Provide all the payments to the Contractor on a predetermined payment schedule between the Contractor and the Town of Payson Fire Department upon completion of work and inspection.

E. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

1. FOREST SERVICE ACKNOWLEDGED IN PUBLICATION AND AUDIOVISUALS. Forest Service support shall be acknowledged in any publications and audiovisuals developed as a result of this instrument.
2. FUNDING EQUIPMENT AND SUPPLIES. Federal funding under this instrument is not available for reimbursement of the Town of Payson Fire Department purchase of equipment and/or supplies.
3. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).
4. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The Forest Service, Inspector General, or Comptroller General, through any authorized representative, shall have access to and the right to examine all records related to this

instrument. As used in this provision, "records" includes books, documents, accounting procedures and practices, and other data regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. All records pertinent to this agreement shall be retained for a period of 3 years.

5. **MODIFICATION**. Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed. The Forest Service is not obligated to fund any changes not properly approved in advance.
6. **PROPERTY IMPROVEMENTS**. Improvements placed on National Forest System land at the direction of either of the parties, shall thereupon become property of the United States, and shall be subject to the same regulations and administration of the Forest Service as other National Forest improvements of a similar nature. No part of this instrument shall entitle the cooperator to any share or interest in the project other than the right to use and enjoy the same under the existing regulations of the Forest Service.
7. **LEGAL AUTHORITY**. The cooperator has the legal authority to enter into this instrument, and the institutional, managerial and financial capability (including funds sufficient to pay nonfederal share of project costs) to ensure proper planning, management, and completion of the project.
8. **PARTICIPATION IN SIMILAR ACTIVITIES**. This instrument in no way restricts the Forest Service or the Cooperator(s) from participating in similar activities with other public or private agencies, organizations, and individuals.
9. **EXTENSION OF PERFORMANCE PERIOD**. The Forest Service, by written modification may extend the performance period of this instrument for a total duration not to exceed 5 years from its original date of execution.
10. **TERMINATION**. Any of the parties, in writing, may terminate the instrument in whole, or in part, at any time before the date of expiration.
11. **PRINCIPAL CONTACTS**. The principal contacts for this instrument are:

Forest Service Project Contact

Don Nunley
Tonto National Forest
Payson Ranger District
1009 E HWY 260
Payson, AZ. 85541
Phone: 928-474-7977
FAX: 928-474-7975
E-Mail: dnunley@fs.fed.us

Cooperator Project Contact

Marty deMasi
Payson Fire Department Chief
400 W Main Street
Payson, AZ. 85541
Phone: 928-474-5242 ext 300
FAX: 928-474-0925
E-Mail: mdemasi@ci.payson.az.us

Forest Service Administrative Contact
Elizabeth Vensel, G&A Specialist
Coconino National Forest
Supervisor's Office
1824 S Thompson Street
Flagstaff, AZ. 86001
Phone: 928-527-3561
FAX: 928-527-3681
E-Mail: evensel@fs.fed.us

Cooperator Administrative Contact
Town of Payson
Payson Town Board
303 North Beeline
Payson, AZ. 85541
Phone: 928-474-5242
FAX:
E-Mail:

12. **AVAILABILITY OF FUNDS.** Funds in the amount of \$6,126 are currently available for performance of this instrument through April 30, 2011. The Forest Service's obligation for performance of this instrument beyond this date is contingent upon the availability of appropriated funds from which payment can be made. No legal liability on the part of the Forest Service for any payment may arise for performance under this instrument beyond April 30, 2011 until funds are made available to the Forest Service for performance and until the town of Payson Fire Department receives notice of availability by written modification by the Forest Service.
13. **DAVIS-BACON OR SERVICE CONTRACT ACT.** Federal wage provisions (Davis-Bacon or Service Contract Act) are applicable to any contract developed and awarded under this instrument where all or part of the funding is provided with Federal funds. Davis-Bacon wage rates apply on all public works contracts in excess of \$2,000 and Service Contract Act wage provisions apply to service contracts in excess of \$2,500. The Forest Service will award contracts in all situations where their contribution exceeds 50 percent of the costs of the contract. If a cooperator is approved to issue a contract it shall be awarded on a competitive basis.
14. **ENDORSEMENT.** Any cooperator contributions made under this instrument do not by direct reference or implication convey Forest Service endorsement of the cooperator's product or activities.
15. **ALTERNATE DISPUTE RESOLUTION.** In the event of any issue of controversy under this Agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to, conciliation, facilitation, mediation, and fact finding.
16. **FINANCIAL PLAN.** The attached financial plan is hereby incorporated and becomes part of this agreement.
17. **COMMENCEMENT/EXPIRATION DATE.** This instrument is executed as of the date of last signature and is effective through April 30, 2011, at which time it will expire unless extended.

18. AUTHORIZED REPRESENTATIVES. By signature below, the cooperator certifies that the individuals listed in this document as representatives of the cooperator are authorized to act in their respective areas for matters related to this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

TOWN OF PAYSON

USDA FOREST SERVICE
TONTO NATIONAL FOREST

BARBARA BREWER DATE
Mayor

GENE BLANKENBAKER DATE
Supervisor

The authority and format of this instrument has been reviewed and approved for signature.

ELIZABETH A. VENSEL DATE
Grants and Agreements Specialist

FOR FOREST SERVICE USE ONLY

Agreement #:	06-PA-11031200-020
Spending Limit for FY06:	\$5,200.00
Burden (overhead rate):	NA
Job Code:	WFHF12(06)
Billing Frequency:	NA
Vendor ID (multiple partners?):	
If Federal, Agency Location Code:	
Program Manager and phone #:	Don Nunley, 928.474.7977
Termination Date:	April 30, 2011

Financial Plan

COST ELEMENTS	FOREST SERVICE			COOPERATOR					(i) Total
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	
	Non-Cash Contrib.	Value of In-Kind Contrib.	Reimb. Coop. Expenses	Non-Cash Contrib.	Value of In-Kind Contrib.	THIRD PARTY			
						Cash Contributions			
Direct Costs					Coop.	Non-Fed	Federal		
Salaries/Labor	\$5,000.00			\$230,000.00					\$235,000.00
Travel	\$200.00								\$200.00
Equipment Use									\$0.00
Supplies									\$0.00
Materials									\$0.00
Printing									\$0.00
Subtotal	\$5,200.00	\$0.00	\$0.00	\$230,000.00		\$0.00	\$0.00	\$0.00	\$235,200.00
Indirect Costs	\$926.00								\$926.00
Total	\$6,126.00	\$0.00	\$0.00	\$230,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$236,126.00
(j) Estimated Program Income (subtract from total of column (i):									
(k) Net Total Project Value:									\$236,126.00

Remarks:

Use the following section to show additional information that supports the lump sum figures provided above. Salary/Labor = hrs or days x rate; Travel = miles x rate or months x FOR rate, days x per diem rate; Equipment Use = hrs or days x rate; Supplies & Materials --list of items and estimated cost; Printing = estimated cost per item; Indirect Cost = Direct cost x current indirect rate.

(a) Salary: COR to layout project, provide specifications and inspect contract work; travel for COR to work site - charge to WFHF12(06). Indirect Cost @ 17.8% of FS salary and mileage, contributed.

(b)

(c)

(d) Salary: cost of contract services and salary provided by Town of Payson, Fire Department

(e)

(f)

(g)

(h)

Matching Costs Determination

Total Forest Service Share =	(l)	
$(a+b+c) \div (k) = (l)$		<u>2.59%</u>
Third Party Cash Contribution Federal =	(m)	
$(h \div k) = (m)$		<u>0.00%</u>
Total Federal Share =	(n)	
$(l+m) = (n)$		<u>2.59%</u>
Total Cooperator Share	(o)	
$[(d+e+f+g) - (j)] \div (k) = (o)$		<u>97.41%</u>
Total (n+o) = (p)	(p)	<u>100.00%</u>

Reimbursement Calculation

Forest Service Reimbursement percent	(q)	
$(c) \div [(c+d+f+g+h) - (j)] = (q)$		<u>0.00%</u>
Cooperator expenses NOT reimbursed by FS	(r)	
$(d+f+g+h-j) \div (c+d+f+g+h-j) = (r)$		<u>100.00%</u>
Reimbursable Amount = Total actual cost incurred to date (sum of cost elements from the Cooperator's invoice as prescribed in provisions _____ and _____ multiplied by 0.00% (q) minus any previous Forest Service payments, not to exceed the subtotal amount listed in column (c) minus any estimated program income.		

Instructions

Use Cost Elements that apply to the particular project. The Cost Elements listed are examples of those commonly used. Delete those that don't apply. Value assessed for volunteer labor should be commensurate with local labor rates for similar work. Donated materials, equipment and supplies should be valued at rates and prices available in the current local market.

- (a) **Forest Service Non-Cash Contribution:** Forest Service employee salaries, travel, equipment, supplies, etc., provided toward completion of the project. Total Forest Service indirect cost (overhead) is also included in this column. All the costs listed here **are an expense** to the Forest Service.
- (b) **Value of Forest Service In-Kind Contribution:** Forest Service contributions toward completion of the project for which the Forest Service has **incurred no expense**. These contributions include such items as volunteer labor, donated materials, equipment, supplies, etc., contributed by third parties directly to the Forest Service. Forest Service volunteer and/or equipment rental agreements should be used to document the donated services.
- (c) **Reimbursable Cooperator Expenses:** The figure(s) listed are both the maximum Forest Service funds to be obligated for reimbursement and Cooperator expenses that are not included anywhere else on this form. This is **an expense** to the Forest Service.
- (d) **Cooperator Contribution:** Cooperator employee salaries, travel, equipment, supplies, etc., provided toward completion of the project. Total Cooperator indirect cost (overhead) is also included in this column. All the costs listed here **are an expense** to the Cooperator.
- (e) **Value of Cooperator In-Kind Contribution:** Cooperator non-cash contributions provided toward completion of the project for which the Cooperator has **incurred no expense**. These contributions can be made from the Cooperator or through the Cooperator by other entities and include such items as volunteer labor, donated materials, equipment, supplies, etc. These values are not reimbursable and can only be used to satisfy the Cooperator's matching requirement.
- (f) **Cash Contribution to the Forest Service:** Cooperator cash contribution provided to the Forest Service for use in completing the project. This is **an expense** to the Cooperator. Display by Cost Element where these funds will be expended. **Be sure to cite a collection authority in the Agreement if this column is used.**
- (g) **Third Party Cash Contribution Non-Federal:** Cash contribution provided to the Cooperator from Non-Federal organization(s) for use in the project. Display these contributions by Cost Element expenditures.
- (h) **Third Party Cash Contribution Federal:** Cash contributions provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element expenditures.
- (i) **Gross Total Project Value:** The sum of all the values provided toward the project. This figure reflects the true estimated cost of the project.
- (j) **Estimated Program Income:** The gross income estimated to be generated under the project between the effective date of award and completion of the project, such as conference or workshop fees received, rental fees earned from renting real property or equipment acquired with agreement funds, or the sale of commodities or items developed under the project.
- (k) **Net Total Project Value:** The sum of all the values provided toward the project with Estimated Project Income taken into consideration. This figure reflects the true estimated cost of the project.