

RESOLUTION NO. 2783

A RESOLUTION OF THE MAYOR AND COUNCIL OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA GAME AND FISH COMMISSION RELATING TO THE STOCKING OF FISH IN THE GREEN VALLEY LAKES.

WHEREAS, the Arizona Game and Fish Commission (the "Commission") has statewide responsibility for the management of wildlife, including fish; and

WHEREAS, the Town of Payson (the "Town") owns certain park lands, including artificial lakes in Green Valley Park which it maintains for the public's recreational use; and

WHEREAS, both the Commission and the Town desire to provide urban sport fishing recreational opportunities at the Green Valley lakes through the stocking of sport fish; and

WHEREAS, for such purpose, an Intergovernmental Agreement has been negotiated,

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

Section 1. The Intergovernmental Agreement between the Arizona Game and Fish Commission and the Town of Payson, attached as Exhibit A is approved in substantially the form attached.

Section 2. Kenny J. Evans, Mayor of the Town of Payson, is authorized to execute the attached Intergovernmental Agreement in substantially the form attached.

Section 3. The Town of Payson is authorized to take such actions as may be necessary to carry out the purpose and intent of the Intergovernmental Agreement.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 5th day of June, 2014 by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

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ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:



Timothy M. Wright, Town Attorney

Exhibit A
To
Resolution 2783

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE
ARIZONA GAME AND FISH COMMISSION
AND
THE TOWN OF PAYSON, AZ**

Pursuant to A.R.S. § 11-952 *et. seq.*, this Intergovernmental Agreement is made this ____ day of _____, 2014, by and through the Arizona Game and Fish Commission (“Commission”), and the Town of Payson (“Town”). The terms “Department” and “Director” in this Agreement hereinafter refer to the Arizona Game and Fish Department and its Director, acting as administrative agent for the Commission.

WHEREAS, the Commission has statewide responsibility for the management of wildlife, including fish, and the Town owns certain park lands, including artificial lakes which it maintains for public use as recreation areas; and,

WHEREAS, both entities desire to provide urban sport fishing recreational opportunity to the extent such a program is found practical; and,

WHEREAS, the Commission has authority under A.R.S. § 17-231(B)(7) to make agreements with other entities for the operation of wildlife facilities and the conduct of related management studies, and the Town has authority under A.R.S. § 11-931, *et seq.* to provide recreation through a Community Services Department; and,

WHEREAS, the Department acts under the authority of the Commission;

NOW THEREFORE, the Parties agree to conduct a Community Fishing Program, as follows:

AGREEMENT:

The Commission agrees that the Department Shall:

1. Inform the public of the purpose and intent of the Community Fishing Program. This will include coverage in Department publications, website, and other outlets as well as the media (radio, television, newspapers) to ensure broad coverage. This may include conducting Sport Fishing Education programs (fishing clinics) for the general public and requesting groups in cooperation with the Town. Specific scheduling information about Department sanctioned programs will be provided to the Town as soon as possible.
2. Set regulations pertaining to license requirements and bag and possession limits specific to the designated Community Fishing waters herein.

3. Print and issue Community Fishing Licenses and other applicable licenses to Department-authorized license dealers in the local area and statewide. Licenses will also be available from Department offices and online.
4. Stock Green Valley Park lakes with catchable rainbow trout approximately every two weeks from November through March and channel catfish from March through November. Catfish stocking will cease from approximately June 14 through September 15 due to heat stress factors. Adjustments to these stocking schedules may be required due to climatic conditions, fish availability and condition, or lake water quality conditions.

Stock sunfish at least once annually into Green Valley Park lakes. Other approved fish species will be stocked as necessary to: 1) establish a resident fish population, 2) augment existing fish populations, 3) maintain a balanced fishery, or 4) improve angler success rates.

5. Monitor basic water quality and biological indicators as needed to determine if lake conditions are suitable for fish stockings. Provide periodic lake assessment reports to the Water Division Manager. Notify the Town by a phone call to the appropriate Water Division Manager of any public health or safety concerns found by the Department.
6. For each participating water, design and provide one or more Fishing Information Stations (kiosks with bulletin board) so that current Community Fishing Program information may be posted for the public. Design and provide Community Fishing Program information and regulation signs, and replacements as needed, for all primary access points around each participating lake.
7. Conduct periodic angler surveys to ascertain angler effort and harvest, angler satisfaction, and performance success of the program.
8. Enforce Commission rules and regulations and Arizona Revised Statutes, Title 17 (Game and Fish laws). Cooperate and coordinate with local law enforcement officials, justice courts, and park staff to ensure angler compliance.
9. Provide advice, technical assistance, and guidelines on lake and fishery management to the Town.
10. Work with the Town to design and install suitable fish habitats as needed to provide adequate cover from predators and spawning habitats.
11. Establish an account to utilize funds paid to the Department by the Town for operation of this program.

The Town of Shall:

1. Inform park users of the Community Fishing Program and allow “Open to the Public” Sport Fishing Education programs at Payson Lake. Install and maintain a Department-provided Fishing Information Station (kiosk with bulletin board) within Green Valley Park to post current Community Fishing Program information for the public.
2. Install the arch support frame(s) for the kiosk(s) and bulletin board(s) at mutually agreed-upon locations, and maintain as needed by removing graffiti, and notifying the Department of damage to the frame, and attached signage and/or kiosk.
3. Make information on the Community Fishing Program available to the public at park facilities, on the Town website, and other outlets.
4. Provide the Department any necessary keys to locks and/or gates so gain access for stocking, monitoring water quality, or conducting creel surveys.
5. Pay to the Department the sum of \$1,015 per surface acre of the lakes for FY15-16 budget cycle (Green Valley Lakes are calculated at 13.0 surface acres for all three waters), and thereafter \$1,030 per surface acre for FY17-18 in accordance with the following schedule:

Water	Area (Acres)	Stocking Strategy	FY15-16 Cost/acre	FY15 Cost	FY15 Due Date	FY16 Cost	FY16 Due Date	FY17-18 Cost/acre	FY17 Cost	FY17 Due Date	FY18 Cost	FY18 Due Date
Green Valley Lakes	13	Traditional	\$1,015	\$13,195	7/31/2014	\$13,195	7/31/2015	\$1,030	\$13,390	7/31/2016	\$13,390	7/31/2017

These funds shall be used to defray the cost of program operations, including costs for fish required hereunder; Payments made to the Department may be leveraged to obtain federal grant funding or other grant funding opportunities. If this opportunity arises, the Town will be notified in writing by the Department, and it will be necessary to verify that all or a portion of the municipal fees do not originate from federal sources.

6. Promptly notify the Department of anticipated and emergency management measures that may affect the management and operations of the Community Fishing Program. This may include lake and landscape construction or repairs, water supply or aeration disruptions, and other activities or occurrences that may affect public health, safety, and access to fishing and stocking activities.
7. Reserved.

8. Monitor and maintain the lakes and water quality in a manner consistent with all other requirements and regulations upon the Town. Regularly remove trash and debris from the lakes. Remove and dispose of dead fish in a timely manner and notify the Department CFP Manager if there is an unusual amount of dead or dying fish. Actively control nuisance aquatic vegetation, excessive or harmful algae blooms, and any aquatic invasive species.
9. Discourage excessive populations of domestic waterfowl and remove as necessary. Discourage populations of cormorants, a fish eating aquatic bird, through park landscape management and other permissible techniques. Allow the Department to conduct Migratory bird depredation activities as needed, and as permitted by the U.S. Fish and Wildlife Service.
10. For lakes with aeration systems, maintain a fully operational system to support good water quality. Ensure that aeration systems or other lake management systems are not limiting angler access or use, unless necessary to conduct maintenance or repairs. Manage and integrate landscape activities to be compatible with the maintenance of good lake water quality.
11. Assist in the enforcement of State, Town and Park codes, rules, regulations and laws (including ARS Title 12 and Title 17 Game and Fish Laws), as applicable. Assist the Department in the enforcement of fishing laws by reporting violations or suspected violations to the Department Operation Game Thief hotline (1-800-352-0700), by verbal warnings, and by citations as necessary to achieve compliance goals.
12. Provide and maintain angler access to shoreline areas at each lake and provide suitable shoreline accommodations for angler use year round.
13. Provide access to the waters so that Sport Fishing Education contractors, Department personnel, and volunteer instructors may conduct Sport Fishing Education programs at no charge.
14. Provide suitable park and lake access to allow for the yearlong stocking of fish using large, heavy vehicles by the Department and their fish contractors at the lakes.

The Parties Mutually Agree To:

1. Work in harmony for the common purpose of managing a Community Fishing Program. Encourage a united and professional approach by personnel of both Parties in seeking solutions to problems and challenges that may arise in fish and angler management programs.

2. Meet annually at the supervisory level to discuss issues, operations and maintenance, planning, budgeting, and other activities relating to park management and the Community Fishing Program. To review accomplishments and to develop and prioritize activities for the coming year, joint meetings will be held as necessary to foster close cooperation on Agreement implementation and Community Fishing Program operations.
3. Cooperate and exchange biological, management and other information useful in the effective operation of a Community Fishing Program.
4. Seek to obtain funding opportunities for projects that: 1) create, enhance, or restore fish habitat, water quality, or angler access; or 2) increase or enhance recreational angling opportunity. These funds may be transferred directly, or through reimbursement, to the Town. Funding availability through the Department is uncertain, but may include support through the Sport Fish Restoration Federal Assistance Program, State Wildlife Grant Program, Arizona Heritage Fund, or other sources. To provide for the future transfer of special funds, the Parties agree to enter into mutually acceptable collection agreements. Future agreements will be developed within the framework of this Intergovernmental Agreement, and applicable grant and agreement requirements are to be approved by agency directors.

General Provisions:

1. Effective Date and Duration. This Agreement shall not be in effect until signed by all Parties hereto. Unless terminated earlier by operation of the terms of this Agreement, or by agreement of the Parties in writing, this four (4) year Agreement will terminate on June 30, 2018.
2. Termination Generally. Either Party may terminate this Agreement upon sixty (60) days' written notice to the other Party. Upon termination, all work performed pursuant to this Agreement will cease, and all unencumbered monies deposited for use by the Department will be returned to the Town.
3. Notices. All written notices concerning this Agreement shall be delivered in person or sent by certified mail, return receipt requested, or first class mail, postage prepaid, to the Parties as follows:
 - A. To the Town of Payson:
Ms. Debra Galbraith, Town Manager
Town of Payson
303 N Beeline Highway
Payson, AZ 85541

B. To the Department:
Mr. Chris Cantrell
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

4. Non-discrimination. In carrying out the terms of this Agreement, the Parties agree to comply with Executive Order 99-4 prohibiting discrimination in employment, the provisions of which are incorporated herein by reference.
5. Audit. Pursuant to A.R.S. § 35-214 all books, accounts, reports, files, electronic data, and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State of Arizona for five (5) years after completion of this Agreement.
6. Arbitration. To the extent required pursuant to A.R.S. § 12-1518, and any successor statutes, the Parties agree to use arbitration, after exhausting all applicable administrative remedies, to resolve any dispute arising under this Agreement, where not in conflict with Federal Law, with each Party to bear its own attorney's fees and costs.
7. Termination for Conflict of Interest. This Agreement is subject to termination pursuant to A.R.S. § 38-511.
8. Termination for Non-Availability of Funds. Every obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds for the continuance of this Agreement are not allocated or are not available, this Agreement shall terminate automatically on the date of expiration of funding. In the event of such termination, the Parties shall incur no further obligation or liability under this Agreement other than for payment of services rendered prior to the expiration of funding.
9. Other Agreements. This Agreement in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.
10. Compliance with Applicable Law. All work performed pursuant to this Agreement shall be in compliance with all applicable state and federal laws and regulations.
11. Severability. In the event that any provision of this Agreement or portion thereof is held invalid, illegal, or unenforceable, such provision or portion thereof shall be severed from this Agreement and shall have no effect on the remaining provisions of this Agreement, which shall remain in full force and effect.

APPROVAL OF THE TOWN ATTORNEY:

I have reviewed the above-referenced Intergovernmental Agreement between the Town and the Arizona Game and Fish Commission and declare this Agreement to be in proper form and within the power and authority granted to the Town of Payson under the laws of the State of Arizona.

Dated this _____ day of _____, 2014 _____
Timothy M. Wright, Town Attorney

ARIZONA GAME AND FISH COMMISSION

By: _____ Date _____
Larry D. Voyles
Secretary to the Commission and
Director, Arizona Game and Fish Department

APPROVAL OF THE ARIZONA GAME AND FISH COMMISSION ATTORNEY:

I have reviewed the above-referenced Intergovernmental Agreement between the Town of Payson, Arizona and the Arizona Game and Fish Commission and declare this Agreement to be in proper form and within the power and authority granted to the Arizona Game and Fish Commission under the laws of the State of Arizona.

Dated this _____ day of _____, 2014 _____
Jim Odenkirk, Attorney
Arizona Game and Fish Commission