

RESOLUTION NO. 2802

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN PAYSON AND VARIOUS GILA COUNTY FIRE DISTRICTS PROVIDING FOR AUTOMATIC EMERGENCY SERVICES AID AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

WHEREAS, the fire departments and districts in Gila County are responsible for emergency services within their respective jurisdictions; and

WHEREAS, the fire departments and districts desire to use automatic response of the department or district that is the closest to the emergency without regard to geo-political boundaries; and

WHEREAS, the fire departments and districts have drafted an agreement to provide a mechanism for the automatic dispatching of the closest personnel and equipment to the emergency,

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

Section 1. The Intergovernmental Agreement between Payson and various Gila County Fire Districts, 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 Agreement in substantially the form attached.

Section 3. The Town of Payson is authorized to take other actions as are necessary to carry out the terms and intent of the Agreement.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this 2<sup>nd</sup> day of October, 2010, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTENTIONS \_\_\_\_\_ ABSENT \_

\_\_\_\_\_  
Kenny Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Silvia Smith, Town Clerk

  
\_\_\_\_\_  
Timothy M. Wright, Town Attorney

**Exhibit A  
To  
Resolution 2802**

***INTERGOVERNMENTAL AGREEMENT (IGA)***  
BETWEEN THE  
TOWN OF PAYSON  
HELLSGATE FIRE DISTRICT  
HOUSTON MESA FIRE DISTRICT  
BEAVER VALLEY FIRE DISTRICT  
WHISPERING PINES FIRE DISTRICT  
GISELA VALLEY FIRE DISTRICT  
CHRISTOPHER-KOHL'S FIRE DISTRICT  
PINE-STRAWBERRY FIRE DISTRICT

This Intergovernmental Agreement ("Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between the Town of Payson, an Arizona municipal corporation, and the Hellsgate Fire District, Houston Mesa Fire District, Beaver Valley Fire District, Whispering Pines Fire District, Gisela Valley Fire District, Christopher-Kohls Fire District and the Pine-Strawberry Fire District, all Arizona fire districts organized pursuant to A.R.S. §§ 48-261 and 48-802 et. seq. (individually, "Party" or "Department" collectively, the "Parties" or "Departments").

WHEREAS, the Parties are authorized to enter into intergovernmental agreements, pursuant to A.R.S. § 11-952, et seq.; and

WHEREAS, the Town of Payson ("Payson") operates the Payson Fire Department and the Hellsgate Fire District, Houston Mesa Fire District, Beaver Valley Fire District, Whispering Pines Fire District, Gisela Valley Fire District, Christopher-Kohls Fire District and the Pine-Strawberry Fire District, ("the Districts") operate their respective districts.

WHEREAS, the Parties are both responsible for fire and emergency services within their respective jurisdictions; and

WHEREAS, the Parties are concerned about proper response to fire and other emergency incidents; and

WHEREAS, the use of automatic emergency responses by the Department closest to the emergency, without regard for geo-political boundaries, will result in shorter response times, thereby increasing the opportunity to save lives and property and;

WHEREAS, this Agreement provides a mechanism for automatic dispatching of personnel and equipment by one Department to respond to areas serviced by another Department so as to provide first response capabilities by the closest unit to the emergency,

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in accordance with the terms and provisions herein, the Parties agree as follows:

1. Definitions:

ALS – Advanced Life Support

Assisting Department – The Department providing services outside of its jurisdiction

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BLS – Basic Life Support

Boundary Drop Automatic Aid Agreement – The common term used for this Agreement

Department – Either Payson or any of the Districts

Departments – Payson or any of the Districts collectively

Fire Officer – A firefighter who, by rank or other qualification(s), supervises other firefighters

Authority Having Jurisdiction – The Department providing services within its jurisdiction.

- 2 This Agreement is entered into pursuant to A.R.S. section 11-952, et seq., and A.R.S. section 48-805 (B)(17),

3 Scope of Services to be Provided:

The purpose of this Agreement is to provide a mechanism by which Departments shall share the emergency response duties with the other, enabling the closest and most appropriate Department, to respond to emergency and non-emergency incidents within the respective jurisdictions.

4. Department Duties:

Departments will attempt to provide standard staffing for Type 1 engine companies responding to emergency incidents of 3 personnel minimum, but shall not drop below 2 personnel at any time. These personnel shall possess at a minimum Arizona Firefighter II, or its equivalent, and Arizona Department of Health Services EMT-Basic certifications. Efforts should be given to provide for (ALS) on all emergency medical responses as a standard level of care. Apparatus other than Type 1 engine companies may be staffed at differing levels. Departments shall make available resources as needed to carry out this effort, without waiting for permission to respond, and within the provisions of Paragraph 10 of this agreement.

Departments may designate specific areas “First Due Areas” due to the proximity of fire stations assigned thereof.

5. Mutual Duties:

The Departments will:

Respond into the other’s jurisdiction as needed to assure a minimum response of one engine or rescue company to Still Alarms, Special Duty, and EMS assignments, and two engine companies to First Alarm assignments. The response shall be governed by the Department’s fire station’s proximity to the emergency and availability, The Northern Gila County Fire Chief’s Association First/Second Alarm Matrix and not geo-political boundaries.

Engage in suitable training to provide for a reasonable uniformity of operations. At

least once per quarter, personnel from all agencies shall engage in a multi-jurisdictional drill or training. Additionally, personnel from each Department shall routinely conduct area orientation activities to become knowledgeable about each other's response areas.

Maintain a compatible rank/position structure, to minimize any questions pertaining to the chain-of-command. The Incident Command System (ICS) shall be used to manage all emergency incidents and all Departments shall use common staging and personnel accountability procedures. Standardized apparatus definitions and numbering shall be used to minimize confusion on incident scenes. Each Department may use the other Department's assigned radio frequencies as necessary for automatic aid operations.

Allow apparatus staffing to be determined by the responding Department as long as the requirements of Section 4.a are met. Departments may utilize any combination of career, part-time or volunteer firefighters. Unless circumstances prevent this from happening, ALS engine or rescue companies shall be provided for emergency medical responses. If circumstances prevent an ALS engine or rescue company from responding, then the other Department shall be notified of the BLS response and the battalion officer shall determine alternative dispatches if necessary.

Agree to follow regional fire operations guidelines as adopted by the Northern Gila County Fire Chief's Association in order to facilitate and coordinate on-scene tactical operations.

6. Incident Command:

Typically, an on-scene fire officer of the Authority Having Jurisdiction shall be the Incident Commander. This authority may be temporarily delegated to a fire officer from an Assisting Department until a fire officer from the Primary Department can assume the role of the Incident Commander. All companies and crews shall work under the direction of a fire officer of their respective Department who in turn shall be under the direction of an appropriate supervisor.

7. Term:

The term of this Agreement shall start on XXXX XX, 2013 and automatically renew each year.

8. Termination:

Any Department may terminate this agreement, with or without cause, upon a ninety (90) day written notice sent by certified letter to the other Departments.

In the event any Department elects to terminate this Agreement, all rights and duties set forth in this Agreement shall terminate for the terminating Department, ninety (90) days from receipt of the certified letter notifying the other Parties, and none of the other Departments shall be liable to the other Departments for any damages resulting from the

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termination. The Agreement shall remain in effect for all other Departments.

9. Additional Compensation:

No Department shall be entitled to any additional compensation for services rendered pursuant to this Agreement from another Department.

10. Primary Responsibilities.

Each Department understands and agrees that nothing in this Agreement shall prevent the carrying out of each Department's responsibility within its respective jurisdiction. If such responsibilities prevent such Department from responding under this Agreement, then such failure to respond shall not be a cause for default or a violation of this Agreement.

11. Dispatch:

The decision of what assignment or how many units to initially dispatch to any particular incident in either jurisdiction shall be at the discretion of the on-duty dispatcher, pursuant to established dispatching policies. The dispatcher may consult with the respective battalion or chief officer of the Authority Having Jurisdiction for additional guidance.

12. Relationship:

The Departments are independent public entities. No Department, nor their employees, shall be deemed to be employees of any other Department.

13. Insurance Policies:

Each Department shall procure and maintain insurance coverage at a minimum of five million dollars (\$5,000,000) for injury to persons or property or loss of life. Each Department shall also procure and maintain vehicle liability insurance in like amount.

Each Department shall bear the risk of its own actions, as it does with its day-to-day operations, and shall be solely responsible for any injuries to its employees and for claims of injury or legal harm asserted by others, from the performance of any obligation under this Agreement. Each Department shall have the right of contribution against the other to the extent of the liability caused by the other Department's employees in activities creating joint liability under this Agreement. Each Department shall be considered an independent contractor with respect to every other Department and, except as provided in A.R.S. § 23-1022, at no time shall an employee of one Department be deemed an employee of any other Department for the purposes of this Agreement.

**Workers Compensation.** During work on this Intergovernmental Agreement, employees of both the Town and the Districts shall maintain their status respectively as Town or District employees, but shall perform under the direction and authority of the either the Town or District as designated in this Intergovernmental Agreement. Notwithstanding the foregoing, an employee of either party shall be deemed to be an “employee” of both public agencies while performing pursuant to this agreement, for the purposes of A.R.S. § 23-1022 and the Arizona Workers’ Compensation laws. The primary employer shall be solely liable for any workers’ compensation benefits that may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers’ compensation.

Any Department may request written verification evidencing the procurement of insurance coverage required pursuant this section.

14. Budget and Property:

Each Department shall be responsible for budgeting for and financing its own operations.

No joint property shall be purchased pursuant to this Agreement and the property of each Department shall remain the property of such Department.

15. Dispute Resolution:

All Departments agree to attempt to informally resolve any disputes that may arise out of this Agreement through their respective Fire Chiefs. Any unresolved dispute, controversy, claim, or cause of action arising out of or related to this Agreement shall be governed by Arizona law and may, but in no event need, be settled by submission with the consent of the Departments to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, et seq., and judgment upon any award rendered by the arbitrators may be entered in the Superior Court of Gila County, or any such dispute, controversy, claim, or cause of action may be litigated in a court. The venue for any such dispute shall be Gila County, Arizona. Each Department waives the right to object to venue in Gila County for any reason. No Department shall be entitled to recover any of its attorneys’ fees or other costs from another Department incurred in any such dispute, controversy, claim, or cause of action, but each Department shall bear its own attorneys’ fees and costs, whether the same is resolved through arbitration, litigation in a court, or otherwise.

16. Entire Agreement.

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This Agreement contains and sets forth the entire and exclusive agreement and understanding between the Departments hereto pertaining to the subject matter. This Agreement This Agreement supersedes any prior agreements between Parties that are of the same subject matter. This Agreement may not be rescinded, canceled, terminated, supplemented, amended, or modified in any way whatsoever without the prior written consent of Parties to this Agreement.

17. Severability:

If any portion of this Agreement is found to be invalid, such finding will not affect the validity of the remainder of this Agreement and to this end the provisions of this Agreement are severable.

18. Arizona Revised Statutes:

All applicable Arizona Revised Statutes, regulations and requirements of the State of Arizona shall supersede all provisions of this Agreement.

19. Conflict of Interest:

This Agreement is subject to the terms of A.R.S. §38-511.

20. Modifications:

Any modification of this Agreement or additional obligation assumed by any Department in connection with this Agreement shall be binding only if evidenced in a writing signed by the other Departments.

21. Non-Appropriation:

Nothing herein shall be construed as obligating either Party to expend, or as involving either Party in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for this Agreement.

22. Headings; Gender; Counterparts:

The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provisions of this Agreement. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include other genders, and the singular to include the plural if applicable. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

23. Construction of Agreement:

This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of or against the Party drafting this Agreement. The Parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

24. Counterparts:

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

25. No Third Party Beneficiaries:

No term or provision of this Agreement is intended to or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause

26. Notices:

All notices, filings, consents, approvals, and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered, or served if in writing and delivered personally or sent by certified United States mail, postage prepaid, returned receipt requested, to the address listed in exhibit A, attached hereto.

or to such other addresses as any party hereto may from time to time designate in writing and deliver in a like manner. Notices, filing, consents, approvals, and communication given by certified mail shall be deemed delivered forty-eight (48) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above. Notices delivered personally shall be deemed delivered upon delivery.

27. Assignment:

No Parties may assign this Agreement or any part thereof without the written consent of the all of the other Parties. Any attempted assignment in violation of this Paragraph shall render this Agreement void and of no effect.

28. Each Party shall indemnify, defend, and save harmless all other Parties and all of its employees, attorneys, agents, representatives and insurers from any and all claims, demands, suits, actions, proceedings, loss, costs, and damages of every kind and description, including attorney's fees and/or litigation expenses, which may be brought or made against or incurred by such other Party and/or its insurers, on account of loss of or

damage to any property and for injuries to or death of any person by reason of or arising out of any act or omission by the District, its employees, agents, or representatives.

29. Notice of Dual Representation:

The Fire District parties to this Intergovernmental Agreement are aware that the Gila County Attorney represents, has represented, or pursuant to statutory duty may represent more than one party to this Agreement in various matters which may include the drafting or review of this Agreement. By signing this Agreement, each party specifically acknowledges that (1) the Gila County Attorney has, by this paragraph, informed each party that the Gila County Attorney believes that it will be able to provide competent and diligent representation to each party to this Agreement represented by the Gila County Attorney and its representation of each party is not prohibited by law and does not involve the assertion of a claim by one party against another party to this Agreement, (2) the party is aware of a potential conflict of interest, and (3) the party specifically waives any such claim based on the Gila County Attorney representation of other parties to this Agreement.

IN WITNESS WHEREOF, the Agencies have executed this Agreement or caused their duly authorized official to execute this Agreement.

Signers to this agreement:

TOWN OF PAYSON, An Arizona municipal Corporation

By \_\_\_\_\_  
Mayor

GISELA VALLEY FIRE DISTRICT By \_\_\_\_\_ Date \_\_\_\_\_

HELLSGATE FIRE DISTRICT By \_\_\_\_\_ Date \_\_\_\_\_

HOUSTON MESA FIRE DISTRICT By \_\_\_\_\_ Date \_\_\_\_\_

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PINE/STRAWBERRY FIRE DISTRICT

By \_\_\_\_\_

Date \_\_\_\_\_

WHISPERING PINES FIRE DISTRICT

By \_\_\_\_\_

Date \_\_\_\_\_

BEAVER VALLEY FIRE DISTRICT

By \_\_\_\_\_

Date \_\_\_\_\_

CHRISTOPHER-KOHL'S FIRE DISTRICT

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVAL AS TO FORM**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

By \_\_\_\_\_  
Timothy Wright, Town of Payson Attorney

**APPROVAL AS TO FORM**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

By \_\_\_\_\_  
Bryan Chambers, Gila County Attorney

**APPROVAL AS TO FORM**

THE GILA COUNTY ATTORNEY'S OFFICE HAS REVIEWED THIS AGREEMENT AND ON BEHALF OF EACH OF THE DISTRICTS APPROVED IT AS TO FORM AND HAS DETERMINED THAT SAID AGREEMENT IS IN PROPER FORM AND IS WITHIN THE POWERS AND AUTHORITY GRANTED UNDER THE LAWS OF THE STATE OF ARIZONA. WE HAVE NOT REVIEWED THE AGREEMENT FOR OTHER ISSUES. THEREFORE, APPROVAL AS TO FORM SHOULD NOT BE CONSIDERED AN APPROVAL OF THE APPROPRIATENESS OF THE TERMS OR CONDITIONS OF THE AGREEMENT OR THE UNDERLYING TRANSACTION. IN ADDITION, APPROVAL AS TO THE FORM SHOULD NOT BE CONSIDERED APPROVAL OF THE UNDERLYING POLICY CONSIDERATIONS ADDRESSED BY THE AGREEMENT.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012

By \_\_\_\_\_  
Gila County Attorney's Office